The Solicitors' Journal

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Current Topics.

The Law Society at Hastings.

THE fifty-first Provincial Meeting of The Law Society, which took place at Hastings under the presidency of Sir HARRY PRITCHARD, from the 23rd to the 26th September, was a great success and proved most enjoyable to those who were able to attend. Our special representative's general report of the proceedings appears at p. 699 of this issue, together with the text of the President's address and five of the papers read at the meeting, with the discussions thereon. A report of the banquet, which was held at the Queen's Hotel on Tuesday evening, appears at p. 717. The remaining papers read at the meeting with the discussions thereon will be published in next week's issue.

The President's Address.

IN the course of his presidential address Sir HARRY PRITCHARD referred to the qualities of mind and character required of candidates for the solicitors' branch of the legal profession, and to the duties of The Law Society to ensure as far as possible that only suitable persons are admitted. The proposal contained in the Bill appended to this year's annual report of the Council to the effect that no one shall enter into articles of clerkship until he has furnished the Council with such evidence as to character and otherwise as may be required by regulation, and until the Council is satisfied with such evidence, is regarded favourably as calculated to secure the exclusion of the odd hundredth or possibly thousandth candidate who might not have a sufficiently high regard for his profession, and as providing existing practitioners with a convenient means of shifting responsibility in cases where valued clients wish them to act as sponsors to their sons or daughters who may for various reasons be unsuitable. Other provisions of the Bill touched upon are those relating to changes in the alternatives to the preliminary examination, to the lengthening of the period of service for articled clerks in some cases from four to four and a half years, the prohibiting of practitioners of less than five years' standing from taking articled clerks in the absence of special authorisation, and the power reserved to the Council to cancel articles in certain circumstances on the application of principal or clerk. An opinion which will, we think, commend itself to members of each branch of the legal profession is that which, while recognising that there should be no undue delay in bringing an action once commenced to trial, deprecates undue haste. "The main object," the President said, "is to ensure that justice is done, and to effect that object adequate time must be allowed in the preparation of the case, and in complicated matters that may require considerable time. Moreover, many of you will have had experience of instances where, as the result of delay, a satisfactory settlement has been effected before incurring the expense consequent on the delivery of briefs. You may have had cases where a somewhat hot-headed client is determined to fight contrary to your advice, but whose ardour evaporates owing to the delay, and who then can be persuaded to accept a reasonable settlement." Other subjects dealt with are the appointment of short-hand writers to the courts—a remedy for delay which Sir HARRY expects to see applied before long; the appointment of additional judges—if such are needed, there should, it is urged, be no hesitation on the ground of expense; the cost of administering justice—which, it is thought, should not be borne wholly by litigants; the difficulty caused by counsel duly briefed being unable to fulfil his engagement owing to his appearance in another court; costs, poor persons' procedure, recent statutes and the forthcoming Public Health Act. For these and other interesting points touched upon in the course of the address, readers may be referred to the full report which appears on page 700 of the present issue.

Legal Education.

MR. HERBERT WARREN's paper on "Legal Education," as it affects the solicitors' branch of the profession, contained a number of interesting suggestions seasoned with criticism of the existing system. He suggested that entry into a solicitor's office should be deferred until the pupil has learnt pure law and demonstrated his mastery of that part of the subject by passing the equivalent of the present intermediate and final examinations with the practice subjects excluded. Advantages claimed for this departure from existing practice are that his time in the office would not be subject to constant interruption by the necessity of attending law classes and of reading for the present examinations. The difficulty which now confronts practitioners of giving one wholly ignorant of law something to do would be obviated, while those for whom the solicitor's profession is unsuitable would be likely to discover the fact before expenses had been incurred in regard to articles and fees. The practical side of the work would be learnt in the course of a three years' period in an office, the student being aided by lectures and classes held not earlier than 5 p.m. At the end of the articles a really practical (as opposed to theoretical) examination would have to be passed as a condition precedent to admission. Mr. WARREN thinks that the standard of the present examinations is too high or not sufficiently practical, his point of view being fairly represented by the following statement: "We are," he stated, "called lawyers, I know, and to be a good lawyer is a great honour, but it is a greater honour, I think, to be a good man of business—able to guide clients not only in their legal business, but in all their activities of life—and, if a busy solicitor looks through his day's work, I think he will find that only a small proportion of it is strictly legal. He does not require to know the whole body of law, but where to find it, and to beware of pitfalls. He does not require to be a pedant, or to know the last decided cases; if legal points arise he generally has an opportunity of looking them up or obtaining the advice of counsel—the specialist." The foregoing has been quoted as exhibiting the

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point of view which underlies many of the suggestions contained in the paper. With the trend of the paragraph many will agree, but we think there is some danger of a false antithesis between a good theorist and a practical man of business. Every-day experience does not confirm the impression that the latter is not ordinarily the former, often, indeed, he is a supremely good theorist and one who exhibits a particularly clear grasp of the relative importance of conflicting principles. Moreover, an age of specialisation is not one in which the standard of professional education can prudently be lowered, while some knowledge of recent decisions and statutes must be regarded as essential for the practitioner. Mr. WARREN'S paper led to a considerable amount of discussion, which is published immediately after the full report of the paper at p. 706.

Road Traffic Courts.

MANY suggestions have from time to time been made to effect some reduction in the prevailing number of road accidents with their consequent loss of life and injury. In a paper entitled "Separate Road Traffic Courts," Mr. R. GRAHAM PAGE, LL.B., addressed himself to this question from the standpoint of what could be done by the legal profession and particularly the solicitors' branch in the direction of solving the problem. Briefly, he proposed that certain of the duties of Parliament, the Ministry of Transport, Local Authorities, the Traffic Commissioners, Advisory Committees, the Law Lords, the Lords Justices of Appeal, the High Court judges, county court judges, stipendiary magistrates, justices of the peace, justices' clerks, chief constables, coroners, Traffic Commissioners, and driving test examiners, be co-ordinated under one body of Road Traffic Courts, whose duties would comprise (*a*) the investigation of the causes of road accidents; (*b*) adjudication upon the public and private rights and liabilities arising therefrom; and (*c*) advising upon legislation for the prevention thereof. It is estimated that some 500 of such courts would be necessary; their jurisdiction would be both civil and criminal and would cover all matters relating to road traffic which are now dealt with by the existing courts and such as fall within the province of the Traffic Commissioners, chief constables, and also—so far as regards matters relating to licences—of the Ministry of Transport and local authorities. A traffic judge and a traffic registrar would sit concurrently in each court. The former would adjudicate upon both civil and criminal liability, the latter—an office open to barristers of at least seven years' practice—would assess damages, grant or refuse licences, and hear and adjudicate upon minor road traffic offences, such as driving without a licence, obstruction and non-observance of traffic signals. The existing Traffic Commissioners would be attached to the new courts, the same commissioner being appointed to several courts, so as to maintain the present districts and the advantages of jurisdiction over long-distance public service vehicles. An appeal would lie from such commissioner and from the registrar to the judge on a point of law and, with leave, on a point of fact. An appeal would lie from the judge to the Court of Appeal on a point of law only. There would also be a Traffic Prosecutor, "a sort of Chief Constable-cum-Director of Public Prosecutions," whose duties Mr. PAGE indicated in his outlines of proposed procedure. In regard to both these subjects and to the many other interesting suggestions, together with the reasons prompting them, readers must be referred to the full report of the paper which appears on p. 707 of the present issue. Mr. PAGE concluded (1) that the legal profession can deal with road traffic matters falling within its province in a manner better suited to existing conditions, and in a way more valuable to the public, by co-ordinating and organising its functions into one separate body under a simple and speedy form of procedure and by directing its attentions to investigation as well as to adjudication, and (2) that its activities in these matters and the knowledge and experience gained from such activities can be put to a service more valuable to the public by means of the attention of that knowledge and experience in one body to advise upon legislation for the prevention of road accidents.

Poor Man's Lawyers.

MR. WENTWORTH PRITCHARD'S paper, while taking account of the various kinds of legal aid provided for the poor, is mainly occupied with the subject of Poor Man's Lawyer centres. The number of these centres, which exist in a great number of the poor localities up and down the country is, it is thought, steadily increasing. The Bentham Committee, to which reference was made some time ago in these columns, performs those functions in London. In the provinces the work is unequally distributed, depending as it does upon the efforts of practitioners in each locality. Mr. PRITCHARD explained that the chief difficulty in the way of starting a new centre is the obtaining of a rota containing a sufficient number of lawyers in order to obviate too great a demand being made on the evenings of those who give their services. The present system of aiding the poor appears, Mr. PRITCHARD observes, to be better than any which has hitherto been suggested, provided that it can be extended to meet the needs of poor persons in all districts. The impossibility of obtaining accurate figures to indicate the extent of voluntary work of this nature was alluded to, and the speaker therefore contented himself with saying that a great deal of work is done, but not enough, owing to the shortage of solicitors and members of the Bar willing to give their services. The success or failure of the present system depended on the legal profession. Failure, Mr. PRITCHARD thinks, will open the door to an extension of the evils of speculative solicitors and those commonly called "Ambulance chasers." "It will," the paper continues, "lead to more discontent and possibly in the end to the introduction of a system of state-provided legal aid which, to say the least, would be far less satisfactory for the legal profession and for the public. If it [the present system] succeeds, the law will be respected, citizens will become more contented, and the prestige of the legal profession will be greatly enhanced." It is pointed out in regard to the possibility of advantage being taken of the provision of free legal aid, that the very facts of the case on which advice is sought often disclose the client's mode of living, while a passage from the report of the Finlay Committee—"We have no reason to suppose that the system has been abused to any serious extent by those who could well afford to pay for advice"—is thought to be equally applicable to the conditions to-day. Many of the problems presented to the Poor Man's Lawyer have, it was said, very little to do with the law, though it is common to find cases where advantage has been taken of a person's poverty to attempt to deprive him of his legal rights. The speaker's experience was that landlord and tenant cases headed the list, including a large number of cases arising out of the Rent Restrictions Acts. Matrimonial or similar domestic problems, cases of master and servant, including workmen's compensation cases and claims for wrongful dismissal, and cases arising from hire-purchase agreements relating to some article of luxury such as a gramophone, also figure largely among matters for which advice is sought. Readers will find the paper fully reported on p. 713.

Solicitors and the Municipal Service.

IF we give less space to Mr. PERCY E. DIMES'S paper than to some of the others read at the Provincial Meeting of The Law Society at Hastings, it is not because it is less interesting in itself, but because—as he himself suggested to the members of the meeting—the subject with which it deals is probably only of indirect interest to our readers. Mr. DIMES postulated average ability, industry, common sense, a determination to master the intricacies of local government law and to render to employers and senior officers adequate service, courtesy and tact towards clients (the employers) and the public, and, of course, the taking of professional duties seriously as

requirements for success in this sphere of professional life which provides reward "in the shape of very reasonable pay while serving, an adequate, even generous, provision for old age, reasonable opportunities and leisure for outside pursuits, reasonable working hours and generous holidays." The problem arising from the desire of one in the service of a particular municipality to improve his position by transferring to another is dealt with, allusion being made to the modern tendency to look with sympathy of allowing by legislative measures the local government official desiring such a transfer to take his superannuation and pension benefits with him. Other aspects of the subject dealt with were the employment of women and the marriage bar, the age limits, and the prohibition against private practice and the transfer of legal work previously entrusted to the private practitioner. On the last point Mr. DIMES observed that, although the chief arguments cited in its favour were (he understood) that it was a matter of convenience and resulted in some saving to the ratepayers to have the work done by the permanent officials, he was sure that no member at the meeting who was in private practice would need any assistance from him in formulating an argument that the practice was entirely unjustified. A full report of the paper appears on page 710 of this week's issue.

High Court of Australia.

THE High Court of Australia, from the chief justiceship of which it is announced that Sir FRANK GAVAN DUFFY is shortly to retire, was the creation of the Commonwealth of Australia Constitution Act, 1900, the preamble of which recited that the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania "humbly relying on the blessing of Almighty God, [had] agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain and Ireland, and under the Constitution hereby established." By this statute the judicial power of the Commonwealth was vested, *inter alia*, in a Federal Supreme Court, to be called the High Court of Australia, to consist of chief justice and as many other justices, not less than two, as the Parliament should prescribe. Its appellate jurisdiction was described as including appeals from courts exercising federal jurisdiction and from the Supreme Court of any of the States, and no appeal to the Privy Council from its decision was to be permissible "upon any question, howsoever arising, as to the limits *inter se* of the constitutional powers of the Commonwealth and those of any State or States, or as to the limits *inter se* of the constitutional powers of any two or more States, unless the High Court shall certify that the question is one which ought to be determined by [His] Majesty in Council." Believing itself, judicially speaking, to be self-sufficient, the High Court has naturally discouraged any appeal from its decisions to the Privy Council—an attitude, not unreasonable, nowadays, and one likely to be more generally followed by the various Dominions. During its existence the High Court has had many notable chief justices, including the present Governor-General—Sir I. A. ISAACS—whom Sir FRANK GAVAN DUFFY succeeded in 1931 after having been one of the puisne judges for many years. Sir FRANK is a son of Sir CHARLES GAVAN DUFFY, who played a notable part in the early struggles of Ireland against what used to be termed "Saxon tyranny," and the present chief justice inherited his sire's political sympathies and attended during his early years at the Bar, along with his fellow-countryman and future judicial colleague, the late Mr. Justice HIGGINS, meetings addressed by the REDMOND brothers during their political tour of Australia—an action on their part which many, including themselves, thought might seriously prejudice their professional future. Here, however, as in many another instance, the truth of CLOUGH's line, "fears may be liars," was to be exemplified, for both went on from strength to strength, their forensic and high personal qualifications being in due time rewarded by promotion to the bench.

Police: Legal Representation.

A MATTER of general importance was raised at the West London Police-court recently when Sir GERVAIS RENTOUL, K.C., urged that the police should be legally represented in cases involving legal argument and intimated that he could not help feeling as a result of the case before him—in which persons were charged with being suspected persons—and several other recent cases that the police were not sufficiently represented. "I understand," he continued, "that a new legal department has been set up at Scotland Yard for the purpose of attending to matters of this kind. It is not the duty of the police themselves to prosecute, but to collect evidence and assist the court, when it is a case involving points of law." The learned magistrate went on to express the opinion that it was in everybody's interest, and certainly in the interests of the proper administration of justice, that the prosecution should be legally represented. The officer in charge of the case was asked to convey this expression of opinion to the proper quarter.

Road Traffic Offences.

RECENT cases in the police courts are, it is thought, of sufficient interest to be shortly noted. In one of them the difficulty of complying in all cases with certain regulations was brought out. The Public Service Vehicles (Conduct of Drivers, Conductors and Passengers) Regulations, 1933, which came into force on 1st April of that year, when the provisional regulations of the same name, dated 21st April, 1931, ceased to have effect, provide, *inter alia*, that a driver of a stage carriage, or an express carriage when acting as such, shall "when picking up or setting down passengers, stop the vehicle as close as may be to the left or near side of the road": *ibid.*, para. 7 (*a*). Excellent as this provision may be, the recent dismissal of summonses against four omnibus drivers indicates that it is not always easy to observe in practice. Evidence was given in one case to the effect that the driver, instead of pulling up behind the omnibuses on the omnibus stop at Duncannon Street, stopped about 13 feet from the kerb and set down some passengers. There was room for seven omnibuses at the stopping place, but only two others were there at the time. Mr. DUMMETT, the magistrate at Bow Street, asked what it was suggested drivers ought to do on the supposition that they came along in single file after being released by traffic signals when they would not all get across on to the stopping place before the lights changed. Dismissing the summons, he said that he could see that there was considerable difficulty in the position, but if it could satisfactorily be proved that there was an opportunity to draw into the near side and an omnibus driver failed to do so he could be punished. Another case arose out of the 30 miles-an-hour speed limit in built-up areas. Sir CHARLES PINKHAM, at the Willesden Police Court, expressed disapproval of police cars acting as decoys at 30 miles an hour, and reduced the fine normally imposed in the type of case under consideration from 40s. to 10s. In reply to a police inspector who asked if objection was taken to police cars travelling at 30 miles an hour, as he would have to report to the Commissioners, Sir CHARLES PINKHAM said: "It is my own personal opinion. I think it is a mistake for police cars to travel at 30 miles an hour, so that anyone wishing to pass them has to exceed 30 miles an hour." In a third case, at the Bromley (Kent) Police Court, the solicitor representing a motorist who was fined 30s. for passing traffic lights protested that the fine was out of all proportion to the offence. The Chairman, Mr. W. A. WARING, said that the magistrates did not regard "jumping the lights" as a technical offence and adverted to the probability of a serious accident happening as a result of the practice. Fines of 30s. and 20s. had been imposed on motorists and pedal-cyclists, respectively, and it was intimated that more severe penalties might be imposed in future. The practice of disregarding traffic lights had, it was said, become a real scandal.

Sir Harry Pritchard.

We have pleasure in presenting with this issue a portrait of Sir Harry Goring Pritchard, solicitor, Secretary of the Association of Municipal Corporations, who has been elected President of The Law Society for 1935-36. Sir Harry Pritchard is the senior partner in the well-known firm of Solicitors and Parliamentary Agents of Messrs. Sharpe, Pritchard & Co.

Educated at Epsom College and King's College, London, he was articled to the late Mr. Thomas Pallister Young, of Messrs. Young & Sons, 29, Mark-lane, E.C., in 1886, but two years later his articles were transferred to his father, the late Mr. A. Goring Pritchard, for many years the senior partner in the firm of Messrs. Sharpe, Pritchard & Co. He was placed first in first-class Honours in the Final Examination and was awarded the Clement's Inn and Daniel Reardon Prizes. He was admitted in 1891, and joined the firm in September of the same year. In 1910 he was appointed Secretary of the Association of Municipal Corporations, and in that capacity he has worked hard in the interests of local government generally. In 1917 he was appointed a member of the Departmental Committee set up to consider and report upon the steps to be taken to secure co-ordination of public assistance (commonly called the "Maclean Committee"), the report of which was presented in December of that year. He was elected a member of the Council of The Law Society in 1921, and he is a member of several Committees of that Council. In 1923 he was appointed a member of the Royal Commission on Local Government, and he is at present serving on the Local Government and Public Health Consolidation Committee. This Committee, formerly presided over by the late Viscount Chelmsford, and now by Lord Addington, was responsible for the drafting of the Local Government Act, 1933, and is considering the consolidation with amendments of the numerous Public Health Acts. He received the honour of knighthood in 1929.

At the annual meeting of the Association of Municipal Corporations held in The Guildhall, London, on the 17th May this year, a presentation was made to Sir Harry Pritchard on the completion of twenty-five years' Secretaryship of the Association.

In addition to his being President of The Law Society for this year, he is also President of the Society of Parliamentary Agents, and this is the first occasion upon which the office of President of both Societies, one being more than 100 years old and the other nearly 100, has been held by the same person.

Sir Harry Pritchard married in 1899 Miss Amy Louisa Harriet Bayly and has three daughters and two sons.

Compromises of Gaming Claims.

A "gentleman's agreement" is usually understood to mean one which is binding in honour, but which the law for various reasons will not enforce. In other words, there is everything present which normally constitutes an agreement, the intention to contract and full consensus *ad idem*, but there is a complete absence of legal sanctions. In the case of so-called "debts of honour" or gambling debts, the creditor's only legal weapon is to attempt to convert the old void contract into a new and legally binding contract.

The essential requisites of such a new contract were recently re-affirmed by Mr. Justice Horridge in *Broughton* v. *Swifte* (*The Times*, 28th June), where his lordship quoted Mr. Justice Lush's statement of the law in *Hyams* v. *Coombes*, 28 T.L.R. 413, 414: "In such a case there are conditions which must be fulfilled before the matter can pass out of the range of a mere gambling transaction and become a legal cause of action. The plaintiff must prove that when the alleged new promise was made there was an actual contracting mind in both parties to enter into a new and genuine bargain for real and substantial consideration, and he must fail if he left in doubt whether the parties had any real intention to enter into a valid contract."

The action before Mr. Justice Horridge had been brought on two cheques for £145 and £55, drawn by the defendant on 1st March and 3rd March respectively, of both of which the plaintiff claimed to be a holder for value. Alternatively it was alleged that on 8th May the defendant bought from the plaintiff counters for the purpose of playing chemin-de-fer and offered to pay by means of a cheque post-dated to 1st March. On the plaintiff's refusing this and threatening to tell the persons with whom the defendant was accustomed to play cards for money that the defendant had refused to pay, the defendant then promised that the cheque would be met, in consideration of the plaintiff not telling his fellow card-players and accepting the cheque. The facts alleged concerning the £55 cheque were the same. Mr. Justice Horridge refused to accept the plaintiff's evidence as to the fresh agreement, and as the cheques were drawn for an illegal consideration, he gave judgment for the defendant.

In the case cited by Mr. Justice Horridge (*Hyams* v. *Coombes*, *supra*) the defendant, who owed the plaintiff, a bookmaker, £138 in respect of gaming debts, on discovering that the plaintiff had put the matter in the hands of a solicitor, wrote asking for time, and asked that the matter should be withdrawn from the solicitor, as the financial arrangements from which he hoped to obtain money to pay his debt would fall through if it leaked out that he had been gambling. The plaintiff instructed his solicitor to hold his hand, but the defendant later failed to pay. It was held in an action based on the letter that the defendant succeeded, as the letter merely amounted to a request for time to pay a debt which in any case could not be enforced.

The numerous authorities on the question of what constitutes a sufficient new contract to support an action mostly turn on the question of consideration. As Sir Gorell Barnes, President, pointed out, however, in *Hyams* v. *Stuart King* [1908] 2 K.B. 696, 704, the onus is on the plaintiff to prove such a contract and new consideration. The reasons for the decisions in that case, as put by Sir Gorell Barnes, were that the legislature had not gone so far as to prohibit betting nor generally to prevent information being published and circulated enabling bets to be made and "losses by betting are regarded as debts, and winners of bets thought to be justified in taking such fair steps as they can and in using conventional sanctions to enforce payment of them as being debts of honourable though imperfect obligation," and that to decide otherwise would be legislating. Farwell, L.J., added that as it was not illegal to pay a gaming debt, but such a debt was merely a debt of honour, or duty of imperfect obligation, "if therefore, another and distinct legal consideration can be established, there is nothing in the payment of a sum equal to the amount of the bet to taint such consideration." Fletcher Moulton, L.J., dissented, holding that s. 18 of the Gaming Act, 1845, providing that "no suit shall be brought or maintained in any court of law or equity for recovering any sum of money . . . alleged to be won on any wager," prevented the plaintiff from succeeding in spite of the fresh consideration.

That the consideration of refraining to declare the defendant a defaulter is good consideration for a fresh promise to pay, is thus well settled, and if further authority is needed, it exists in abundance: *Bubb* v. *Yelverton* (1870), L.R. 9, Ex. 417; *Hodgkins* v. *Simpson* (1908), 25 T.L.R. 53; *Goodson* v. *Baker* (1908), 52 Sol. J. 302; *Cohen* v. *Ulph*, 25 T.L.R. 710. This of course assumes, as Barnes, P., pointed out in *Hyams* v. *Stewart King*, *supra*, that the plaintiff can prove his contract and fresh consideration. The best method of proof is always a document signed by the defendant to the effect that he

promises to pay in consideration of the plaintiff's refraining from posting him as a defaulter, but it is not always possible to obtain such a document, and reliance is frequently placed on statements in letters and conversations.

It is in the latter type of case in which it is necessary to apply the test set out by Lush, J., in *Hyams* v. *Coombes*, *supra*. Much depends upon individual circumstances as to whether a letter can be construed as a fresh promise to pay on fresh consideration. For instance "mere fear of evil consequences is an altogether insufficient basis for the recognition of a transaction of this nature on the ground of new consideration" (per Kennedy, L.J., in *Re Comar, ex parte Ronald* (1908), 52 SOL. J. 642, a case in which a gaming debtor confided in his creditor his fear that if his position became known some large accounts which he had on the Stock Exchange would be closed and such consideration was held insufficient). On the other hand, Lord Alverstone, C.J., in *Chapman* v. *Franklin*, 21 T.L.R. 515, where there was an offer to pay £60 in full satisfaction of a debt of £120, said: "If there had been any evidence that the appellant at the time that he made the promise had any fear of an action or of anything being done by the respondent in the way of showing him up, then I think there would have been consideration for the promise." In *Re Comar*, *supra*, the defect appears to have been that there was no "actual contracting mind in both parties to enter into a new and genuine bargain for real and substantial consideration" (per Lush, J., in *Hyams* v. *Coombes*, *supra*). In *Chapman* v. *Franklin*, *supra*, Lord Alverstone apparently thought that such a contracting mind could have been inferred had there been any evidence of threats by the creditor causing a fear of exposure in the mind of the debtor. Lord Alverstone distinctly stated in the later case of *Ladbroke & Co.* v. *Buckland*, 25 T.L.R. 55, that "every case must turn on its own particular facts." That was a case where he held that there was no consideration where a defendant wrote asking the plaintiffs to keep the matter private, as publicity would ruin his chances of success in a business deal. The plaintiffs promised to do so, but asked when they might expect a cheque, and in a further letter they demanded a settlement by a particular date, but received no reply. The plaintiffs alleged that owing to their agreement to wait they refrained from posting the defendant as a defaulter.

It was held on the facts in *Whiteman* v. *Newby*, 28 T.L.R. 240, that where a defendant agreed to submit a dispute as to the amounts owing on gaming transactions to a committee of Tattersalls, and to pay the amount due, there was a new promise founded upon fresh consideration. On the other hand, where a defendant agreed to refer the question as to the odds payable on a particular debt to Tattersall's Committee and there was no further agreement by the defendant to pay the amount found to be due by Tattersall's Committee, there was held to be no fresh consideration: *Hyde* v. *Taylor* (1926), 70 SOL. J. 856.

Again, it was held to be a question of fact whether an agreement to compromise an action brought for a gaming debt is sufficient consideration for a new promise to pay: *Burrell & Son* v. *Leven*, 42 T.L.R. 407. It was held in that case that a mere agreement to compromise an action was not sufficient consideration. A mere forbearance to sue by itself is clearly not consideration in such a case. "The mere giving of time to pay that which cannot be enforced does not amount to consideration," said Barnes, P., in *Hyams* v. *Stewart King*, *supra*, but it is obvious that there might be other additional elements in a case which makes a forbearance to sue good consideration. The plaintiff stated in his answer in *Goodwin* v. *Grierson* [1908] 1 K.B. 761, that he had given time and forborne to sue, at the defendant's request. The defendant applied to have the action dismissed as frivolous and vexatious. Buckley, L.J., said: "It would be competent for the plaintiff to reply: 'I forbore to sue you at your request, because you expected serious social or commercial consequences to ensue from my insisting on my demands, such as, for example, expulsion from your club, or injury to your business, and on my promise not to sue, you again agreed to pay me the same amount as the gambling debt.'"

The fact that a mere forbearance to sue by itself it not good consideration where a plaintiff knows that he has no case is well settled law: *Wade* v. *Simeon*, 2 C.B. 548. It might be argued that a forbearance or compromise where a plaintiff thinks he has a good case, but actually has none, is enforceable, and there is some authority for this. "Every day," said Cockburn, C.J., in *Callisher* v. *Bischoffheim*, L.R. 5 Q.B. 449, "a compromise is effected on the ground that the party making it has a chance of succeeding in it, and if he *bonâ fide* believes that he has a fair chance of succeeding he has a reasonable ground for suing and his forbearance to sue will constitute a good consideration." Yet it can hardly be said that anyone can believe that he has a reasonable chance of success in a purely gaming action, for everyone is presumed to know the law. The probability is therefore that even where the plaintiff thinks he has a good case in law, but actually has not, as, for instance, where he alleges a fresh promise based on a consideration which in law is no consideration, a compromise of such a case will not be enforceable, as everybody is presumed to know even difficult points of law. Perhaps it might be added that the presumption in this case most closely accords with actual facts, for bookmakers and backers are more expert than any other class in that branch of the law which relates to their particular field of activity.

Costs.

CONVEYANCING SCALES.

WE have dealt in our former articles with some of the provisions relating to the remuneration of solicitors in respect of auctions conducted by them, and we propose now to complete our review of these rules.

Rule 2, after providing that the remuneration of a solicitor in respect of an attempted sale by auction in lots is to be calculated on the aggregate of the reserve prices, goes on to state that where there is an attempted sale, and the property does not reach the reserve price, and the terms of sale are afterwards negotiated by the solicitor, then he will charge the full commission for an attempted sale, but only half the commission for negotiating the subsequent sale. Thus, if property is put up for auction, and the solicitor conducts the sale himself, or employs an auctioneer to do so at his expense, and the property is withdrawn because the reserve price of £3,000 is not reached, then the solicitor's charges would be £12. If he subsequently negotiated a sale of the same property for £3,200, then he would be entitled to half the scale negotiating commission, namely, £18 12s. If, as presumably he would do, he also deduces the title to the property, and peruses and completes the conveyance, then he would be entitled to the scale fee of £43 4s. in addition.

The same difficulty arises here as we envisaged in our last article, namely, to determine whether the solicitor in such circumstances is bound to charge his remuneration according to the scale set out in Sched. I, Pt. I, or whether he is entitled to charge under Sched. II. In the majority of cases, the latter is the more profitable. We may notice one important difference between the provision here and the provision relating to the remuneration of a solicitor in the case of an attempted sale in lots. In the latter case the direction to charge according to scale is imperative, whilst in the former case the direction would appear to be optional, for the rule says that the solicitor "is to be entitled" to charge according to scale, which leaves one with the impression that he may, if he chooses, charge according to Sched. II. The Order itself though leaves the

solicitor no option in the case of a completed sale, whether by auction or otherwise, and notwithstanding the wording of r. 2, it is thought that the solicitor is bound to charge according to scale, if the transaction is completed by the solicitor subsequent to the abortive auction. The reader is referred to our earlier article for some notes on the question as to when a transaction may be regarded as completed.

In any case, it is certainly thought that if, after the abortive auction, the client takes the matter elsewhere and attempts to sell the property through other channels, and only when these fail comes back to the original solicitor in order that he may negotiate a sale, the sequence of the transaction may be taken to be broken, so that the first attempted sale and the subsequent negotiations may be regarded as two separate and distinct transactions. The point is, of course, of some importance, because if it can be shown that there are in fact two transactions, then the solicitor is not bound by the provision that his scale remuneration for the negotiations shall be one-half the normal scale.

The matter is not without some doubt though, for it will be observed that the rule states that where the sale is subsequently negotiated by the same solicitor he shall be entitled to charge the scale remuneration. If the rule is to be deemed imperative notwithstanding the permissive character of the wording, this might very well be read to imply that no matter how long after the abortive auction the solicitor may negotiate the sale, he is still bound to charge only half the negotiating fee. It is felt, however, that the matter is bounded by the direction that the scales apply only to the case of completed transactions, and that the facts must be examined carefully in each case in order to determine when one transaction commences and another finishes.

We then come to another direction in the rule dealing with the solicitor's remuneration in respect of sales by auction. Where a solicitor acts in connection with the sale of property by auction and the reserve price is not reached and the same property is subsequently put up for auction again, the solicitor may only charge his remuneration in respect of the first abortive auction by reference to the scale, and he must charge for his work in connection with subsequent abortive auctions according to Sched. II. There is one qualification here, namely, that to entitle the solicitor to the scale remuneration in respect of the first abortive auction there must be a subsequent sale by the same solicitor, either by auction or otherwise, for, as we have seen before, the scale applies only in the case of completed transactions. Where there is a subsequent effectual sale by auction, then the solicitor will be entitled to charge in respect of this sale according to the scale, but he must deduct one-half of the scale fee for the first abortive auction.

An example may make the position clear. Assume that a solicitor acts in respect of an attempted sale by auction where the property is withdrawn because the reserve price of £2,000 is not reached. Assume further that the property is again offered by auction when the reserve is again not reached, but at the third attempt, at which the reserve price is reduced to £1,500, the property is sold for £1,700. The solicitor's remuneration in this case will be as follows, namely: in respect of the first attempted sale, the scale commission on £2,000, that is £9; in respect of the second attempted sale, detailed charges made out according to Sched. II; and in respect of the third effectual sale, the scale commission of £16 4s., less one-half of the commission on the first attempted sale, namely, £4 10s. If the property was not sold at the third attempt and the matter was taken out of the solicitor's hands, then the charges in respect of the three attempted sales would be made out according to Sched. II, and it will be remembered that in this case the solicitor would be entitled to charge the client with the auctioneer's commission. Even where the property is subsequently sold, as in the instance cited, there would be nothing to prevent the solicitor from charging the client with the auctioneer's commission in respect of the intermediate abortive auctions between the first abortive auction and the final effectual sale, because it is only in those cases where the scale remuneration is charged that the solicitor is precluded from charging the client with the auctioneer's fees.

Company Law and Practice.

Some Observations on Table A.

It may be said by some of my readers that Table A is a subject of too elementary a nature to be discussed in these columns: I would answer that, elementary though it may be, yet it is not a topic that can be overlooked by the practitioner; particularly if he is called upon to draft articles of association for a new company, or to alter the existing articles of an old company. The provisions of Table A form the basis of a great number of articles, and for many of the smaller companies in existence its regulations are adopted as they stand, with perhaps a few modifications to suit individual circumstances. But this week I do not intend to compile a catalogue of its contents, which are reprinted in the majority of text-books, and of which most practitioners have a working knowledge; rather, I want to consider the nature of Table A and its status.

Turning first to the statutory provisions (1929 Act) which are applicable, we see that, by s. 6, there may, in the case of a company limited by shares, and there must, in the case of a company limited by guarantee or unlimited, be registered with the memorandum articles of association signed by the subscribers to the memorandum and prescribing regulations for the company. Articles of association may adopt all or any of the regulations contained in Table A (which is set out in the first schedule to the Act, and headed "Regulations for Management of a Company limited by Shares"); and, in the case of a company limited by shares and registered after the commencement of the Act (i.e., the 1st November, 1929), if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations contained in Table A, those regulations are, so far as applicable, to be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles (s. 8). It will be seen therefore that a company can either draw up and file a complete set of articles which expressly exclude all the regulations of Table A; or draw up and file articles which consist partly of Table A and partly of individual clauses, as to which the corresponding Table A regulations are excluded or modified; or, lastly, have no articles of its own registered, when Table A is taken as being its articles. With the first and last of these three alternatives we need not concern ourselves here, but I will refer later to the second possible course.

To return to the Act, Pt. IX deals with companies which are not formed under the Act, but which are authorised to register under it; and by s. 333 (1) and (3) (*a*), when a company is registered in pursuance of that part, Table A is not to apply unless it is adopted by special resolution. We should know to which companies this applies, and s. 321 (1) tells us that, with the exceptions and subject to the provisions contained in the section, (*a*) any company consisting of seven or more members, which was in existence on the 2nd November, 1862, including any company registered under the Joint Stock Companies Acts (i.e., the Acts of 1856, 1857 and 1858), and 21 & 22 Vict. c. 91 (1858) (being an Act to enable joint stock banking companies to be formed on the principle of limited liability); and (*b*) any company formed after the 2nd November, 1862, whether before or after the commencement of the 1929 Act, in pursuance of any Act of Parliament other than the 1929 Act, or of letters patent, or being a company within the Stannaries, or being otherwise duly constituted according to law, and consisting of seven or more members; may at any time register under the 1929 Act as an unlimited company, or as one limited by shares or by guarantee, whether or not registration has been effected

with a view to the company being wound up. The exceptions above mentioned are too numerous and involved to be detailed here, and I refer my readers to the section itself on that point, my extract being, I think, sufficient for present purposes.

While these early Acts are in mind, it is appropriate to observe that, by virtue of s. 382 (3), Table A of the 1862 Act remains in force so far as regards companies registered before the 1st April, 1909, with one alteration by the Board of Trade, with which we need not greatly concern ourselves; and Table A of the 1908 Act is not affected by anything in the 1929 Act, so far as that Table A applies to companies registered between the 1st April, 1909, and the 1st November, 1929.

By virtue of s. 8 (to which I have already made reference), and of s. 10, the regulations contained in Table A may be altered or added to by special resolution; and any alteration or addition so made is as valid as if originally contained in the articles, and is to be subject in like manner to alteration by special resolution. Furthermore, apart from this power of alteration by the company, s. 379 (1) empowers the Board of Trade to alter (*inter alia*) Table A, and sub-s. (2) enacts that Table A, when altered by such authority, is to be published in the *London Gazette*, and thenceforth is to have the same effect as if it were included in the appropriate schedule to the Act; but no alteration made by the Board of Trade in Table A is to affect any company registered before the alteration, or repeal, as respects that company, any portion of that Table (see also [1906] W.N. Misc. 233 *et seq.*, for a Table A, which was revised by the Board of Trade under a similar power contained in the 1862 Act, and which was in force from the 1st October, 1906, to the 1st April, 1909).

Now the question may be asked—what is the status of, and how much weight may be given to, the regulations contained in Table A? It is a point which the courts have had to consider from time to time, and the result is that two important qualities have become attached to Table A. The first emerges from *In re Barned's Banking Company: Ex parte The Contract Corporation*, 3 Ch. 105, at pp. 113-114, and *In re Pyle Works*, 44 Ch. D. 534, 571, and may be summarised by saying that Table A may be looked upon as showing what is the view of the Legislature on the matters contained in its regulations. The second is apparent from the two cases of *Lock* v. *Queensland Investment Land Mortgage Company* [1896] 1 Ch. 397; [1896] A.C. 461, and *New Balkis Eersteling Limited* v. *Randt Gold Mining Company* [1904] A.C. 165. In the former decision, the company had excluded from its articles the application of Table A of the 1862 Act, and the question arose whether a clause in the company's articles authorising the directors to pay interest on calls paid in advance was *ultra vires*, that clause being in effect the same as cl. 7 of Table A. The opinion of Kay, L.J. (at pp. 406-407) was that the clause was not *ultra vires*, since s. 14 of the 1862 Act provided that a company "may adopt all or any of the provisions contained in Table A," and cl. 7 of that table was in substance the same as the clause in question in the company's articles; while in the House of Lords ([1896] A.C. 461), the Lord Chancellor took the same view but in stronger vein, and Lord Herschell said, at p. 467: "It is not susceptible of contention that to do what s. 7 provides for can be *ultra vires*. The Legislature can never have enacted that if the company do not otherwise provide their articles of association shall be such as will provide for something *ultra vires*. The present case comes within the very terms of s. 7 of Table A." And in the latter case Lord Davey used these words: "If it" (the certificate of proprietorship of shares) "is in accordance with art. 22" (of Table A) "no question of *ultra vires* can arise, because it would be ridiculous to say that that which is prescribed by an Act of Parliament, for the model articles of a company formed under that Act, could be *ultra vires*" [1904] A.C. 167; words which apply, *mutatis mutandis*, to the present Table A, the authorisation being now given by s. 8 (1), *supra*.

I have already referred to the course which is often taken of adopting in part the regulations of Table A, the remainder of the articles being composed of special clauses to suit the particulars of the company in question. But, though this is frequently done, such a course usually lacks clarity, though it may benefit by brevity and lower printing costs. Furthermore, it greatly increases the task of the practitioner who has to draft such individual clauses with Table A partly excluded or modified; and it increases also the difficulties of those who are called upon to construe the company's articles when in existence, unless, in either case, a sound and polished working knowledge of Table A is present, which is not always the case. The danger of such hybrid articles is well illustrated by the decision of the House of Lords in *R. Paterson and Sons Limited* v. *Paterson* [1916] W.N. 352, where the company's articles provided (art. 1) that the regulations contained in Table A in the First Schedule of the Companies (Consolidation) Act, 1908, should apply to the company only so far as "they are not excluded, altered, or modified by the following provisions." Article 12 then provided for the division of the profits between particular participants and in particular proportions, but cl. 99 of Table A empowered the directors, before recommending any dividend, to set aside out of the profits of the company such sums as they might think proper as a reserve, to be applied for the purposes therein mentioned. In other words, if part of the profits were set aside to reserve, the participants and their proportions detailed in art. 12 would be altered; and for this reason, it was held that cl. 99 of Table A was excluded from the company's articles by necessary implication. The facts were similar in *Fisher* v. *Black and White Publishing Company* [1901] 1 Ch. 174, with the exception that there the "profits from time to time available for dividend," and not merely the "profits," were to be divided among certain shareholders in certain proportions, and, on these words, a clause in Table A in substance the same as cl. 99 (*supra*) was held not to be excluded *in toto* by implication, but it must be taken to form part of the company's articles.

Another point in connection with "hybrid" articles arose in the comparatively recent case of *Fell* v. *Derby Leather Co. Ltd.* [1931] 2 Ch. 252. The company was incorporated in 1906, and by its articles it was provided that Table A in the first schedule to the 1862 Act should apply to the company, but that certain clauses of Table A should be excluded. One of the special articles used in conjunction with Table A (namely, art. 16) provided: "the office of director shall be vacated . . . (4) if he is requested by his co-directors to resign." Disputes arose between the plaintiff and W, who were the only directors of the company, and culminated in W giving the plaintiff a notice, pursuant to art. 16, requesting the plaintiff to resign the office of director of the company. In this action, the plaintiff alleged that the notice was invalid and of no effect, by reason of the word "co-directors," in the plural, in Art. 16. The contention of the defence was that one director was entitled to give the notice, having regard to the true construction of the articles and to the Interpretation Act, 1889, which, by s. 1 (1) enacts that "In this Act and in every Act passed after the year 1850, whether before or after the commencement of this Act, unless the contrary intention appears . . . (*b*) words in the singular shall include the plural, and words in the plural shall include the singular." Bennett, J., approved the defendant's contention that Table A of the 1862 Act is an Act of Parliament, and that, accordingly, in the interpretation of Table A words in the singular include the plural unless the contrary appears; and he agreed with his second point that if that provision applied to Table A, it must also apply to special articles which are used with it, since otherwise there would be two different principles, one governing Table A and the other governing the special articles. Having expressed his view that there was no contrary intention in the special articles, his lordship held that the request by the single director was a valid request within art. 16; the plaintiff therefore ceased to be a director as from the date of receipt of the request, and the action accordingly failed.

A Conveyancer's Diary.

Name and Arms Clause. No Gift over on Non-compliance.

A point of some interest came under my notice recently, and I was surprised to find that there was no authority directly in point until as recently as 1920, when there was a decision to which I will refer.

The question is as to the effect of a declaration in a will that a person, to whom a freehold estate has been devised shall take and bear the surname of the testator, there being no express provision for forfeiture or revocation of the devise upon the devisee failing to comply with the testator's declaration and gift to take effect upon such failure.

There have been some earlier cases which are very nearly but not quite upon the point.

In *Re Catt's Trusts* (1864) 2 H. & M. 46, there was a bequest of residuary personalty amongst a number of persons with a direction as follows: "I hereby direct that all and every the residuary legatees under this my will save only and except . . . do and shall within the space of twelve calendar months next after they shall severally become entitled to his or her share of and in the said trust monies and premises under this my will assume and take under the sanction of or licence of the Crown or otherwise," a certain surname "and no other . . . and in case such person or persons shall refuse decline or neglect to comply with the requisitions of this proviso for the said space of twelve calendar months after they shall become so entitled as aforesaid" then the estate of such person was to determine and be void and the part or share of such person was to "go and be paid and applied in such and the same manner as if he she or they so refusing declining or neglecting as aforesaid was or were actually dead."

Sir W. Page Wood, V.-C., held that the direction with the forfeiture clause was ineffectual. His lordship said that if a testator desired a gift to be revoked the mere fact that there was no gift over would not prevent the revocation from taking effect. In that case, however, it was impossible to ascertain who were the persons intended to be benefited by the gift over. The proviso for cesser did not therefore fit the case.

It would appear from the judgment that a devise in fee simple might be defeated by a condition such as this without any gift over on failure to comply with it, but there must be some expressed or necessarily implied revocation.

The case does not exactly meet the point which I am considering.

A later case which followed *Re Catt* is *Musgrave* v. *Brooke* (1884), 26 Ch. D. 792.

The facts in that case were that a testatrix settled her freehold estate upon her grandchildren, a share becoming vested in one of them, L, in fee simple in possession. The will contained a proviso that any person becoming entitled in possession to the estate should within one year thereafter take and use the name of "Jones," and that in case any such person should refuse or neglect to use the name of Jones within one year, then the estate limited to him or her should be void and should first go to her niece, C.J. (since deceased), and after her decease to the person or persons next in remainder under the trusts of the will in the same manner as if the person so refusing were dead.

The grandchild, L, did not comply with the condition, and it was held by Pearson, J., that the gift, being in fee simple and there being necessarily no person entitled in remainder, the name clause was void, and, consequently, there had been no forfeiture by L.

It will be seen that the real ground of the decision there was that the persons to take under the proviso for forfeiture were not ascertainable, or rather (in that case) could not exist, as there could be no persons entitled "next in remainder" after a fee simple.

A case which is more nearly in point for my present purpose is *Gulliver* v. *Ashby* (1766), 4 Burr. 1929.

There a testator devised his mansion house and estates, subject to a life interest to his wife, to persons in succession in tail male "Provided always that this devise is expressly upon this condition that whenever it shall happen that the said mansion house and estates, after my wife's death, shall descend or come unto any of the persons hereinbefore named, the person or persons to whom the same from time to time shall descend or come do or shall then change their surname and take upon them and their heirs the surname of Wykes only and not otherwise."

There was no devise over on failure of any person as aforesaid to take the surname required by the testator.

It was held that the condition was void.

Yates, J., said in his judgment: "This is certainly not a condition precedent. The question then is whether it is a conditional limitation. I am clearly of opinion that it is not. Doubtless it is not an express limitation, and an implication of one can only be made in order to effectuate the testator's intention, and must be a necessary implication to that purpose."

That case, however, was somewhat complicated by other provisions in the will by analogy to which it was sought to set up that there was a gift over to be implied, and it turned somewhat upon the intention to be gleaned from the will as a whole.

The case to which I referred at the commencement of this article is *Re Evans' Contract* [1920] 2 Ch. 469.

After devising a freehold estate to trustees and giving his daughter and grand-daughter and her husband successive equitable life interests therein, with remainder to the use of the grand-daughter's first and other sons successively in tail male, with divers remainders over, the testator provided and declared that every person becoming entitled to the estate as tenant for life or tenant in tail in possession and the husband of every such person if female and married, should within twelve calendar months of becoming entitled in possession assume the testator's surname and arms. There was no gift over on non-compliance with the proviso. Neither the testator's daughter or grand-daughter, both of whom succeeded to the estate, nor the husband of either of them, assumed the testator's name and arms in compliance with the proviso.

Objection was taken to the title on a sale by the grand-daughter under the powers of the S.L.A., on the ground that she was not, and had not the powers of, a tenant for life, her estate, as the purchasers alleged, having ceased by reason of her non-compliance.

It was held by Peterson, J., that the vendor could make a good title.

It was contended in the first place that the proviso imposed a common law condition. His lordship disposed of that point by saying that if that were so (and he did not decide that it was) then one only the heir at law was entitled to avail himself of it by entering, which in fact the heir had not done, and until he did so the grand-daughter was entitled to the income and consequently able to exercise the statutory powers of a tenant for life.

The main argument however (and that with which I am concerned) was that the direction in the proviso was in effect a conditional limitation and that it must be so regarded in order to give effect to what the testator intended by his will, namely, that if a tenant for life did not take and assume the name and arms in question the estate was to go to some one else.

Upon that point the learned judge, after referring to *Gulliver* v. *Ashby*, said: "What is there in the present case to show that the testator undoubtedly meant that if Miss Evans" (the grand-daughter) "failed to take and assume the name and arms of the testator, the estate was to go over as if she were dead? I do not find anything to show that that was the intention of the testator. It may be that this

was merely the expression of a desire. It is simply a declaration that each of the specified persons is to assume the surname and arms, and nothing whatever is said as to what is to happen to the estate if any of these persons fails to carry out the expression of the desire."

It seems to follow that in such a case if there is no gift to take effect on failure of compliance with the condition, or there is none from which the Court can ascertain with certainty who was intended to take under the gift over, the condition is ineffectual. Further that a gift over on non-compliance with such a condition will not be implied unless it is essential to do so in order to give effect to the testator's intention to be gathered from the will.

Landlord and Tenant Notebook.

Distress: Landlord's Liability for Bailiff's Acts.

Problems of the kind suggested by the title of this article are essentially referable to the law of agency rather than to that of landlord and tenant; but the mistakes made by bailiffs have afforded so many examples of the general principles that it may be convenient and useful to survey the decisions separately. This applies especially to the principle of ratification, for landlords, anxious to receive their rents and trusting their bailiffs' knowledge of the law, and, perhaps, banking on the distrainees' shortage of funds, are peculiarly tempted to adopt illegal acts which they did not originally authorise.

The most instructive case is undoubtedly *Lewis* v. *Read* (1845), 13 M. & W. 534. The plaintiff complained of the seizure and disposal of sheep, of which some had been taken from his brother's farm, some from another farm. The seizure had been effected by a bailiff, who was second defendant, acting under instructions from an agent of the first defendant. The instructions expressly directed the bailiff to confine his activities to the first farm. While he was driving them to the pound, other sheep from another farm joined them. The bailiff sold all and paid over the proceeds. The plaintiff in his claim for illegal distress and trover alleged that his brother's tenancy (of the first farm) had determined. This issue of fact was found in his favour, and the first defendant was held liable, as regards the sheep from that farm, because he had received the proceeds knowing the facts. But as regards the sheep alleged to have been taken from the other farm, his express instructions on the one hand and the absence of a finding as to knowledge on the other hand were a sufficient answer.

The above decision was followed in *Freeman* v. *Rosher* (1849), 13 Q.B. 780, and it is interesting to observe the application of the same principle to different facts. The landlord only was sued; his authority to the broker had been general; but the broker had removed and sold a wooden shed, honestly believing it was lawful for him to distrain upon it. The defendant's receipt of the proceeds had been without knowledge or even enquiry. It was held that the warrant did not authorise a trespass, and there had been no ratification. It was said, however, that the tenant might have some sort of an action against the landlord—a claim for negligence was hinted at; but the tenant would, it seems to me, be at a loss to find a duty.

For a decision on the question of ratification in favour of the tenant, one can refer to *Moore* v. *Drinkwater* (1858), 1 F. & F. 134, another case of distress levied on fixtures; but this time the facts were that the landlord-defendant had visited the premises before the sale besides taking the proceeds afterwards. In such circumstances a plea that no illegality was originally authorised was unavailing.

A further illustration is afforded by *Carter* v. *Vestry of St. Mary Abbott's, Kensington* (1900), 61 J.P. 548, C.A., the circumstance that it was a case of distress for rates being immaterial for present purposes. The brokers employed by the Vestry, who had no special instructions, seized furniture let on hire to the wife of the plaintiff, who in his action relied on a letter from the clerk to the relevant committee, written in answer to the plaintiff's protest. The letter informed him that the committee were at a loss to understand his threat, and the Vestry's solicitors would accept service. At first instance, the plaintiff's case was dismissed: but the Court of Appeal were of opinion that there was ample evidence of ratification; with knowledge of the facts, the defendants had stood by what had been done by the bailiff.

Apart from ratification, it may be difficult for a landlord to evade responsibility when distress has been sold irregularly; for, as readers with a taste for history will appreciate, the right to distrain was originally a right to seize and hold only, and the right of sale was created by Act of Parliament, the Sale of Distress Act, 1688, which prescribes certain conditions. Thus, in *Haseler* v. *Lemoyne* (1858), 5 C.B. (N.S.) 530, when it appeared that no notice had been given, as required by that statute, it was held that the landlord-defendant could not justify the sale as he could not show that the conditions had been fulfilled; and as before the sale he had said he would "leave the matter" to the bailiff, there was no escape possible.

How far an illegal distress can be brought home to a landlord, who has not ratified, is a question of fact; in *Gauntlett* v. *King* (1857), 3 C.B. (N.S.) 59, a landlord was held liable for the seizure of subsequently returned fixtures, the bailiff having seized them "by way of distress."

Of course, these principles do not affect the relationship between landlord and bailiff, which may be and usually is carefully defined by the terms of their contract. A bailiff guilty of excessive distress thereby lets his employer in for a claim based upon the second oldest statute governing the relationship of landlord and tenant, the Statute of Marlebridge, 1267, and is liable to reimburse the amount justifiably paid to settle the tenant's claim, as was held in *Megson* v. *Mapleton* (1884), 49 L.T. 744. A case which shows that a bailiff is liable to a landlord for negligence, apart from any claim by the tenant, is *White* v. *Heywood* (1888), 5 T.L.R. 115; the premises were a railway arch, and the defendant had successfully seized, and impounded on the spot, a steam engine worth £60. The plaintiff told him to be on the look-out for an attempt to remove the engine, and suggested employing two men; he engaged one only, and one cold evening (it was December) that man deserted his post at 8 p.m., and next morning the engine was gone. The landlord was awarded its value.

Our County Court Letter.

THE RESTRICTIVE COVENANTS OF HAIRDRESSERS.

In *Grimmer* v. *Pyle and another*, recently heard at Lincoln County Court, the claim was for an interim injunction to restrain the second defendant from engaging in the business of hairdressing in Lincoln. The plaintiff's case was that in June, 1932, the second defendant entered into an apprenticeship, on the undertaking of herself and her father that, for five years after the expiry of the covenant, she would not engage in hairdressing in Lincoln. The apprenticeship terminated after two years, but the second defendant was retained as an assistant until August, 1935, when she took another situation in Lincoln. The defence was that the agreement was terminated by the engagement of the second defendant as an assistant, after the expiry of her apprenticeship. His Honour Judge Langman granted an injunction, pending the trial of the action in October, but pointed out that, if the defendants were then successful, the plaintiff would have to pay damages for the second defendant's loss of work.

HIRE-PURCHASE OF MOTOR LORRIES.

In *Lincoln Wagon and Engine Co. Ltd.* v. *Wainwright Bros.*, recently heard at Alfreton County Court, the claim was for £51 12s due under a hire purchase agreement. In September, 1934, the defendants hired a motor lorry, which the plaintiffs obtained from the Brunswick Garage Co. Having paid £190 down, the defendants agreed to pay eighteen monthly instalments of £25 5s. 8d., but two were in arrear. The plaintiffs had paid £410 for the lorry to the Brunswick Co., who were guarantors for the payment of £600 by the defendants. The latter had contended that the lorry was unsatisfactory, and had returned it to the Brunswick Co., but that firm were not authorised to receive the lorry, as they were not the plaintiffs' agents. Liability was denied, on the ground of misrepresentation, e.g., the lorry was not a 1931/34 pattern (as described), but had a body of a 1925 model. After frequent breakdowns, the lorry was finally returned last February. His Honour Judge Longson observed that *primâ facie* the defendants had a good case. The evidence had shown, however, that they were indifferent to what they were hiring, and had had ample opportunity of discovering what they had obtained. They were thus estopped from disputing the value of the lorry. Judgment was given for the plaintiffs, for the amount claimed, with costs, payable at £1 a month.

INJURIES TO THEATRE-GOERS.

In *Roberts* v. *British Theatre Corporation Ltd.*, recently heard in the Liverpool Court of Passage, the plaintiff had gone to the defendants' theatre on the 11th January. While going to a seat in the gallery the plaintiff was knocked over by a boy, who vaulted over a barricade. Having sustained a fractured wrist, the plaintiff claimed damages for negligence and breach of duty from the defendants, as owners of the theatre, for not providing proper safeguards. The defendants contended that it was impossible to foresee, or to guard against, any particular man pushing against another member of the audience. The presiding judge, Sir W. F. K. Taylor, K.C., having reserved judgment, held that, even if there was a breach of duty, by the defendants, that was not the cause of the accident. Judgment was therefore given for the defendants, who did not ask for costs.

LANDLORD'S LIABILITY FOR DEFECTIVE ROOF.

In *Boardman* v. *Sutcliffe*, recently heard in the Liverpool Court of Passage, the claim was for damages by reason of injury to furniture, owing to non-repair of a house. The plaintiff's case was that in September, 1934, a storm occurred, during which parts of the lead covering of the roof, and of the windows and skylight, were damaged. On the 5th October, the whole house was flooded, and the walls were saturated. The defendant's case was that he had to distrain for rent three times, but the plaintiff explained that he had purposely withheld the rent, owing to inattention to his complaints about the roof, and the distresses were all paid out. The presiding judge, Sir W. F. K. Taylor, K.C., gave judgment for the plaintiff for £14 and costs. Compare *Cunard* v. *Antifyre Ltd.* [1933] 1 K.B. 551.

SURRENDER OF ANNUAL TENANCY.

In a recent case at Birmingham County Court (*Tibbetts* v. *Adam and Kayman*) the claim was for £20 5s. as rent of a jewellery workshop from June to October, 1934. The plaintiff's case was that in June, 1933, he had let the premises on an annual tenancy, determinable at the end of the first or any subsequent year by six months' notice on either side. No notice had been given at Christmas, 1933, but the defendants had vacated the premises in June, 1934, on the return of the defendant Adam to Germany. The premises remained vacant until October, 1934, when they were re-let. The defendant Kayman contended that, at an interview in March, 1934, a clerk to the plaintiff's estate agent had agreed to terminate the tenancy at the end of the first year, viz., in June, 1934, at which date he accepted the key. As the clerk's employment had since terminated, he was not available as a witness for the plaintiff. It was therefore submitted for the defendant that, in the absence of any denial, there was ample evidence of the surrender by mutual agreement. The plaintiff's case was that, even if the clerk had been called as a witness, the probable result would have been a conflict of evidence. In that event the court would have relied upon the correspondence, which contained repeated demands for rent (after June, 1934), but the suggestion of a surrender was not advanced until December. His Honour Judge Dyer, K.C., held that the defendant had not discharged the onus of proving the surrender, and judgment was therefore given for the plaintiff, with costs on Scale B. Compare Woodfall's "Law of Landlord and Tenant" (23rd ed., 1934), at pages 380 to 382.

THE CONTRACTS OF BOOKSELLERS.

In *Gresham Publishing Co., Ltd.* v. *Curtis*, recently heard at Stamford County Court, the claim was for £3 15s. as the price of six volumes on gardening. The plaintiffs' case was that, in accordance with a written contract (witnessed by their representative), the books were sent to the defendant, who acknowledged their receipt, but denied having ordered them. The books were returned a month later, and the defendant denied that he had signed the contract, his case being that all his letters were written by his landlady. It was also submitted on his behalf that the plaintiffs, having taken the books back, could not sue for the full price, and were only entitled to damages for breach of contract. Mr. Registrar Cook held that the contract was signed by the defendant, or by his landlady with his authority. The plaintiffs were therefore entitled to judgment, but for 15s. only, with 17s. as expenses for their witness.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

Connection with Main Drainage.

Sir,—I was interested to see "Point in Practice" No. 3228 in your issue of to-day. May I respectfully draw your attention to a note on p. 89 of Vol. I of the latest edition of "Lumley's Public Health Acts"? Referring to s. 23 of the Public Health Act, 1875, the note says: "This section is sometimes erroneously regarded as enabling an authority to require an owner to alter his system of drainage, though it may be sufficient in itself, and to justify their requiring an owner to abolish a cesspool, and drain into a sewer. This cannot be done under the section, if the drains are in fact sufficient, even if there is a convenient sewer. Nor, if his drains are sufficient, can they require him to make new drains into a new sewer which they see fit to construct . . ." Having regard to the fact that the existing drainage arrangements are stated to be satisfactory, would it not appear that the answer to both your correspondent's queries is "No"?

21st September. SUBSCRIBER.

[The above letter has been submitted to the contributor who was responsible for the answer to the earlier query, and his reply is as follows:—

The original question was not interpreted as meaning that the existing drainage arrangements are satisfactory, as suggested by the querist. The original question merely stated that the neighbour could not contend that the existing sanitary arrangements constitute a nuisance. The sanitation might nevertheless be detrimental to the occupants of the houses themselves, which would thus be "without a drain sufficient for effectual drainage" within the meaning of s. 23. Without further information, it is therefore not agreed that the answer to both queries should have been "No."—ED., *Sol. J.*]

Proof of Claim against Assignee of Term.

Sir,—With reference to the article on the Landlord and Tenant in your issue of the 7th inst., we notice that it is stated that :—

"In cases in which a landlord contemplates suing an assignee of the term for breaches of a covenant to repair the law is tolerably clear ; the assignee's liability is limited to breaches which occurred while he held the lease."

The article goes on to say that the legal position has been defined by a number of authorities.

The article in question interests us considerably, and we shall be very much obliged if you could let us have a note of the authority for the statement and perhaps you could at the same time refer to some cases on the point.

SHEPHEARDS, WALTERS & BINGLEY.

London, W.8.
11th September.

[We have submitted our correspondent's letter to the contributor of the "Landlord and Tenant Notebook," and his reply is as follows :—

"Without context, the sentence quoted is capable of misleading ; as the rest of the article suggests, the 'while he held' means 'before he assigned.' The question of pre-assignment dilapidations is critically discussed in 'Foa'; on pp. 481-2 of the present edition the learned author comments on the absence of authority. The leading case on the limitation of assignor's liability is *Beardman* v. *Wilson* (1868), I.R. 4 Q.B. 57. The sentence quoted, when widely interpreted, may not apply to a general repairing covenant : see *Martyn* v. *Clue* (1852), 18 Q.B. 661, but *Smith* v. *Peat* (1853), 9 Ex. 161, the case dealt with in the article, certainly warrants the proposition that an assignee would not be responsible for dilapidations occasioned by the failure of his assignor to paint in a specified year. As to assigning grantee's right to indemnity see 75 SOL. J. 288."—ED., *Sol. J.*]

Obituary.

LIEUT.-COLONEL J. I. D. NICHOLL.

Lieutenant-Colonel John Iltyd Dillwyn Nicholl, D.L., J.P., barrister-at-law, died at Bridgend on Friday, 20th September, at the age of seventy-four. Educated at Eton and Christ Church, Oxford, he was called to the Bar by the Inner Temple in 1886, and practised on the South Wales Circuit. He was made a Justice of the Peace at the age of thirty-two, and for many years he was Chairman of the Bridgend Bench of Magistrates and Vice-Chairman of the Glamorgan Quarter Sessions.

MR. G. BABBAGE.

Mr. Gilbert Babbage, retired solicitor, of Exeter, died recently in an Exeter nursing home at the age of sixty. Mr. Babbage served his articles with Messrs. Geare & Mathew, of Exeter, and was admitted a solicitor in 1898. He retired from practice last April.

MR. A. E. K. DAVIES-BUNTON.

Mr. Archibald Edward Kennett Davies-Bunton, solicitor, senior partner in the firm of Messrs. Gossling & Bunton, of Bournemouth and Wareham, died on Tuesday, 17th September, in his fiftieth year. He was admitted a solicitor in 1910, and for a time he was in partnership with Mr. W. Hatton Budge, of Wareham. He was elected to the Wareham Borough Council in 1913, and in 1915 he became Clerk to the Wareham and Swanage Justices. He had been associated with Messrs. Gossling & Bunton for about fifteen years.

MR. B. H. MARSDEN.

Mr. Briggs Holden Marsden, solicitor, of Blackburn, died on Saturday, 21st September, at the age of forty-seven. Mr. Marsden, who was admitted a solicitor in 1923, was Town Clerk of Blackburn and also Clerk of the Peace.

MR. H. E. MEADE-KING.

Mr. Herbert Edward Meade-King, solicitor, senior partner in the firm of Messrs. Meade-King & Co., of Bristol, died at Cleeve on Friday, 20th September, at the age of seventy. Educated at Clifton College and Pembroke College, Cambridge, he was admitted a solicitor in 1889.

TABLE OF CASES previously reported in current volume.—Part II.

NOTICE TO CONTRIBUTORS.

The Editor will be pleased to consider for publication contributions and correspondence from any professional source upon matters of legal interest.

All contributions (including correspondence) should be typewritten and on one side of the paper only, and must be accompanied by the name and address of the contributor.

The Editor is unable to accept any responsibility for the safe custody of contributions submitted to him, and copies should therefore be retained. The Editor will, however, endeavour in special circumstances to return unsuitable contributions within a reasonable period, if a request to this effect and a stamped addressed envelope are enclosed with the manuscript.

The copyright of all contributions published shall belong to the proprietors of THE SOLICITORS' JOURNAL, and, in the absence of express agreement to the contrary, this shall include the right of republication in any form the proprietors may desire.

Mr. K. Hunnybun, solicitor, of Huntingdon, has resigned his position as Town Clerk of Godmanchester, an office held by members of his family for ninety-nine years. Mr. Hunnybun was admitted a solicitor in 1911.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, are responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Whether Application for a Certificate of Excuse IN THE CASE OF A CLASS "C" HOUSE MAY BE MADE BY THE LANDLORD FOR THE TIME BEING.

Q. 3229. A is the owner and occupier of a Class "C" house which at the date of the passing of the 1933 Rent Restriction Act was let, and therefore, under s. 2 of that Act, would require registration to keep it decontrolled. The house is not registered and subsequently to the time limited for registration the property is sold to B. B obtains an excuse certificate and registers the property. On an application for possession by B it is suggested that the only person entitled to an excuse certificate is A, as being "the landlord of any dwelling-house let as a separate dwelling immediately before the passing of this Act." It is suggested, however, that as the proviso to s. 2 (2) does not state the application must be made by the landlord at the date of the passing of the Act, it is argued that any person may make the application, and as the Rent Restriction Acts apply *in rem* and not *in personam* the excuse certificate was properly granted, subject, of course, to there being reasonable grounds. It is also pointed out that the definition of "landlord" in s. 12 (1) (*f*) includes the persons deriving title under the original landlord and would thus include a purchaser. An opinion on this point would be valued.

A. There appears to be no doubt that an application for a certificate of excuse under the proviso to s. 2 (2) of the Rent and Mortgage Interest Restrictions Amendment Act, 1933, may be made by the landlord for the time being. By s. 12 (1) (*f*) of the Act of 1920, "except where the context otherwise requires," the expression "landlord" includes any person from time to time deriving title under the original landlord, and there appears to be nothing in s. 2 (2) of the Act of 1933 to show a contrary intention. If the expression "landlord" in s. 2 (2) of the Act of 1933 were restricted to the person who was actually the landlord of the dwelling-house immediately before the passing of the Act, it would follow that if a house had been sold after the passing of the Act (18th July, 1933) and before the expiration of the time limited for registration (18th October, 1933), the purchaser could not have applied for registration. It is submitted that the sub-section could not possibly have been intended to have had this effect.

Whether Dwelling-house Decontrolled.

Q. 3230. X is the tenant of a controlled house. Whilst X is still rightfully in occupation Y communicates with the owners of the property and is informed that Y may have the tenancy of the house immediately X vacates at a rent of 8s. 6d., which is in excess of the permitted rent allowed by the Rent Restrictions Acts. Y purchases from X various articles, namely, a rack, table, cupboard, gas-fittings, sink cover and three wooden shelves, and these articles are left on the premises when X vacates them on October 18th, 1929. The tenancy of X does not actually expire until 19th October, and on the latter date X hands the key of the premises to the owner's agent before noon as required by the terms of tenancy. Y obtained the key later the same day about tea-time and commenced paying rent as from 19th October, 1929, and Y's rent book states that the date of entrance is 19th October and that the tenancy commenced on that date. Between the time of the handing over of the key by X and its acquisition by Y the owner and her agent went through the house and alleged that they did this in order to decontrol it. In county court proceedings the learned judge held that this constituted a sufficient act to decontrol the premises and it is now desired to appeal against this decision. Your opinion is invited as to whether such appeal is likely to succeed having regard to :—

(1) The fact that the various articles purchased by Y were left on the premises by the outgoing tenant (it will be borne in mind that by s. 2, sub-s. (3) of the 1923 Act actual *vacant* possession must be enjoyed by the owner in order to decontrol premises).

(2) The fact that the owner had agreed to grant a new tenancy to Y immediately X's tenancy terminated, this agreement being entered into whilst X was still tenant.

(3) The fact that according to the case of *Page* v. *More* (1850), 15 Q.B. 684, a tenant is entitled to retain possession till midnight of the actual day upon which the tenancy commenced.

Would you kindly cite any authorities which may assist us.

A. Although the question is not free from doubt, it would appear that the dwelling-house is decontrolled. In *Caledonian Heritable Estates* v. *Methven* (1929), S.C. 39, it was held that a house does not come into the possession of the landlord when one tenant leaves it at the agreed termination of his tenancy and is immediately succeeded by another with whom the landlord has entered into a new agreement of letting. In the present case, however, the landlord actually entered the premises before the new tenant entered, and this fact would appear to constitute "actual possession" within the meaning of s. 2 (3) of the Rent and Mortgage Interest Restrictions Act, 1923. The fact that various articles purchased by Y were left on the premises by the outgoing tenant would not appear to affect the position, and as the terms of the tenancy required that the key of the premises should be handed over before noon, *Page* v. *More* (1850), 15 Q.B. 684, would not appear to apply. Reference may be made to the following cases :—*Hall* v. *Rogers* (1925), 133 L.T. 44 ; *Jewish Maternity Home Trustees* v. *Garfinkle* [1926] 95 L.J. K.B. 766 ; *Ogden* v. *Fawthorp*, "Estates Gazette Digest," (1926), p. 317 ; *Fairlight* v. *Thurgood*, "Estates Gazette Digest," (1929), p. 7 ; *Challen* v. *Murray*, "Estates Gazette Digest," (1929), p. 19.

Effect of Devise to Five in Undivided Shares—L.P.A., 1925, s. 34(3).

Q. 3231. X died recently, having by his will appointed A and B, two of his sons, to be executors and trustees and having given certain freehold property to his five sons A, B, C, D and E "absolutely and in equal shares." The will contains no trust for sale. It is proposed (and agreed by the five sons who are all of age) that A and B, as personal representatives, should assent to the vesting of the property in themselves alone as trustees for sale Upon trust to hold the net proceeds of sale and the rents and profits until sale in trust for the five sons as tenants in common in equal shares. Should a separate document be executed by the five beneficiaries authorising the executors A and B to vest the property in themselves alone in this way ? A reference to precedents would be appreciated.

A. No special authority is required. It is the duty of A and B to proceed in the manner desired (L.P.A., 1925, s. 34 (3)). For a form of assent see L.P.A., 1925, Sched. V, Form No. 9, which can readily be adapted to the case.

Statutory Advertisement for Creditors—Position where Personal Representatives have good reason to believe that a Claim exists.

Q. 3232. A. B., a married woman, who died in 1934, by her Will after appointing her executors and bequeathing certain pecuniary legacies gave all the residue of her estate to the persons therein named in equal shares. The usual advertisments for claims against the estate under the Trustee Act, 1925, have been published in the London Gazette and in the local papers. It appears that the deceased's husband, who does not derive any benefit under her Will, is a pauper inmate of a mental institution in the adjoining county and has been confined there a considerable number of years. A considerable sum for the husband's maintenance must therefore have been incurred but no claim has been made for payment by the institution in response to the advertisements. In such case would the executors be justified in paying the legacies and distributing the residuary estate without regard to any possible claim which might be made by the institution for the husband's maintenance against the estate and would they in so doing be freed from personal liability ? I shall be glad of your opinion as to the proper course to be adopted and whether the case is in any way affected by the recent High Court decision.

A. We do not think so. Section 27 of the Trustee Act, 1925 speaks of "claims, whether formal or not" to which regard must be paid. It might be said that a belief that a claim must of necessity exist would be a claim of which they had informal notice. Further advertisement does not seem to have been made in a paper likely to come to the notice of the institution. The protection afforded by the section is somewhat vague for it is not possible to say with certainty what notices the Court would order in any particular case . . . each case being a matter for separate consideration. It seems to the writer that the personal representatives ought to approach the institution to formulate a claim. We take it that the recent case referred to is either *Re Holden* [1935] W.N. 52 or *Re Letherbrow* [1935] W.N. 34, 38.. If an application was made for an enquiry as to what notices should be given the facts would have to be disclosed to the Court. Being in possession of the facts the court would certainly take steps which would result in the institution making a claim.

Will—Rents given to an Infant until 25—Duties of Trustee. Legacy payable to Infant if and when he shall attain 25—Destination of Intermediate Income.

Q. 3233. By his Will made two months before his death A devised his "six freehold houses in Blank Road unto my Trustee upon trust to pay the income thereof and the net rents thereof to my grandson B until he shall attain twenty-five and subject thereto the said houses shall fall into and form part of my residuary estate." Testator also bequeathed £1,000 to B if and when he shall attain twenty-five. The only other provision in the Will was a bequest of the residuary estate to testator's brothers C and D in equal shares. A had no children and B was his only grandchild. A owned only five houses in Blank Road which he bought in 1921 and his only other house property consisted of two cottages some distance away from Blank Road. A died this year and B is now aged 7. Is B entitled to the rents of the five houses until he attains twenty-five ? Who is entitled to the income from the bequest of £1,000 until B attains twenty-five ?

A. Our subscribers are referred to Trustee Act, 1925, s. 31, for the duties of the trustee as to the rents (Maintenance of the infant; accumulation of surplus income; payment to infant on majority, etc., etc.). As to the £1,000 contingent legacy, this income will fall into the residue pending the happening of the contingency. (*Re Raine* [1929] 1 Ch. 716.). See also *Re Abrahams* [1911] 1 Ch. 108.

Reviews.

Police Law. By Cecil C. H. Moriarty, O.B.E., LL.D., Assistant Chief Constable, Birmingham. Fourth Edition. 1935. Crown 8vo. pp. xx and (with Index) 480. London: Butterworth & Co. (Publishers), Ltd. 5s. net.

The first edition of this book was published in 1929. This is the fourth edition, and it embodies new sections dealing with a great variety of matters which have arisen since the third edition was issued in 1933. In particular, road and rail traffic and all the various recent amendments of the law relating to motoring have provided the author with numerous additions to the previous text. We have on several previous occasions commended this useful and compact little volume to all concerned, whether as police officials or otherwise in the administration of the criminal law; and our opinion of it is, if anything, enhanced by perusal of the fourth edition.

Injury and Incapacity, with special reference to Industrial Insurance. By H. Ernest Griffiths, M.S. (Lond.), F.R.C.S., Professor in Surgery Royal College of Surgeons. 1935. Royal 8vo. pp. viii and (with Index) 270. London: Balliere, Tindall & Cox; Jordan and Sons, Ltd. 12s. 6d. net.

This very learned book contains a clear and intelligible description of every imaginable form of injury that could happen to a person engaged in any industrial capacity. It is based upon an investigation of a very large number of cases of injury, by tracing them from the date of injury to the time of resumption of work; and the author has prepared a series of tables showing the average period of incapacity in weeks which may be expected to result from a particular type of injury happening to workmen of different ages. Apart from the value of Dr. Griffiths' work to medical men who are called upon from time to time to give evidence in workmen's compensation cases, it should prove of exceptional service to members of the legal profession who are concerned in that department of litigation.

Books Received.

Ministry of Health Statement showing the Number of Persons in receipt of Poor Relief in England and Wales in the Quarter ending in June, 1935. London: H.M. Stationery Office. 6d. net.

Black Maria, or The Criminals' Omnibus. Conducted by Harry Hodge. 1935. Crown 8vo. pp. 1012. London: Victor Gollancz, Ltd.; William Hodge & Co., Ltd. 8s. 6d. net.

The Housing Act. Explanatory Booklet. By H. A. Hill, Barrister-at-Law. 1935. Demy 8vo. pp. 59. London: National Federation of Property Owners and Ratepayers. Price 1s.

Insurance Shares Year Book. 1935. London: Trust of Insurance Shares, Ltd. 5s. net.

Secretarial Practice. The Manual of the Chartered Institute of Secretaries. Fifth Edition, 1935. Demy 8vo. pp. viii and (with Index) 1012. Cambridge: W. Heffer & Sons, Ltd. 12s. 6d. net. Oxford India Paper Edition, 15s. net.

Manual of the Law of Evidence. By the late Sidney L. Phipson, M.A. (Cantab.), of the Inner Temple, Barrister-at-Law. Fifth Edition. 1935. By Roland Burrows, K.C., Reader in Evidence at the Inns of Court, and C. M. Cahn, B.A., of the Inner Temple, Barrister-at-Law. Demy 8vo. pp. xlvii and (with Index) 344. London: Sweet and Maxwell, Ltd. 12s. 6d. net.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited, London, Liverpool and Birmingham.]

To-day and Yesterday.

LEGAL CALENDAR.

23 SEPTEMBER.—Frederick Pollock, the third son of George III's saddler, was born on the 23rd September, 1783. He achieved fame as Chief Baron of the Exchequer.

24 SEPTEMBER.—On the 24th September, 1402, Nicholas Bubbewith, Archdeacon of Dorset, was appointed Master of the Rolls, having already gained some legal experience as a clerk or master in Chancery. He retained his office for less than two and a half years, and shortly after his elevation, he was appointed a bishop. So highly were his judicial talents thought of, that in 1414 he was one of the prelates summoned to Rome to help the cardinals to decide between three rival candidates for the papal chair.

25 SEPTEMBER.—People were startled by the firm belief in witchcraft revealed by a case which came before the magistrates sitting in petty sessions at Castle Hedingham on the 25th September, 1863. A poor old dumb Frenchman of eighty, living in a wretched hut, had for about eight years supported himself by telling fortunes, if not by pretences of witchcraft. His energetic gestures were taken by the neighbours for cabalistic signs and one woman took it into her head that he had bewitched her. The result was that she and some sixty people attacked him, dragged him repeatedly through the mill pond, and so ill treated him that he died. Before the magistrates she obviously laboured under a superstitious fear. Together with one of the men concerned, she was committed for trial.

26 SEPTEMBER.—Martin Wright probably owed his elevation to the Bench of the Exchequer to his successful "Introduction to the Law of Tenures" which he had published nine years before, in 1730. He was soon transferred to the King's Bench, but he remained unknighted until 1745, when he went up with the judges' address on the rebellion. After sixteen years' service, he resigned in 1755, living in retirement for twelve years until his death at Fulham on the 26th September, 1767.

27 SEPTEMBER.—William of Wykeham, Bishop of Winchester, was twice Lord Chancellor, the first time for three and a half years under Edward III, and the second, under Richard II, when the young king threw aside the council of regency imposed upon him and reclaimed his liberty of action. He accepted the Great Seal with reluctance and some apprehension, but for two years he devoted himself to launching the new régime. Then, on the 27th September, 1391, he laid down his office, glad, at the age of sixty-seven, to be released from responsibilities which he had not sought.

28 SEPTEMBER.—On the 28th September, 1842, Sir Michael O'Loghlen died in George-street, Hanover-square. Three years before, he had been appointed a Baron of the Exchequer in Ireland, being the first Roman Catholic judge there since the time of James II. A couple of months later, he had been promoted to be Master of the Rolls. "There never was a judge who gave more entire satisfaction to both the suitors and the profession; perhaps never one sitting alone and deciding so many cases of whose decisions there were fewer reversals." His industry, courtesy and patience were unequalled.

29 SEPTEMBER.—Serjeant Thomas Willoughby, the fourth son of Sir Christopher Willoughby, was the first of the order of the coif to be knighted, receiving that honour in 1534, when he was King's Serjeant. Three years' later, he became a Justice of the Common Pleas and held that office until his death on the 29th September, 1545. He was buried in the church at Chiddingstone, in Kent, where he had an estate called Bore Place, which came to him through his wife who was the daughter and co-heir of Lord Chief Justice Read.

THE WEEK'S PERSONALITY.

The children of Mr. David Pollock, the highly respected saddler of George III, were no ordinary family, since one became a field-marshal, another Chief Justice of Bombay, and another Chief Baron of the Exchequer. This was Sir Frederick Pollock, a great scholar, a great lawyer and the founder of the *gens juridica* still lustily flourishing to-day. He sat on the Bench till he was nearly eighty-three and survived his retirement by four years. He had a lively personality and was never a mere lawyer. Lord Alverstone, C.J., used to recall how, as a young man, he once sat next to him at dinner. Having previously worked out several suitable topics of conversation, he thought he was on safe ground in approaching the controversy then raging whether Carey-street or the Embankment was the most suitable site for the new Law Courts. Diffidently he asked the great lawyer's opinion and received the astonishing reply: "What on earth do I care about Law Courts!" But to the very last he never excused himself from his daily duties, enjoying the conflict of mind which exercised his faculties. His health remained excellent and his activity amazing, while the vigour of his mind remained altogether unimpaired.

SHOOTING IN COURT.

Comedy may lie pretty close to tragedy sometimes. It was recently reported that in a Spanish court a defendant, charged with unlawfully carrying a revolver, pleaded that it was only a trophy, obsolete and unusable. The counsel in the case, in practical support of this argument, invited the judge to load the weapon, aim it at him and pull the trigger. The proposal was accepted; there was a loud explosion and learned counsel found that the bullet had taken a piece out of his left ear before embedding itself in the wall of the court. "That costs your client 50 pesetas," said the judge. "I find him guilty of the charge." This story recalls the incident in the trial of Madame Fahmy, when Marshall Hall, demonstrating with the fatal revolver, became conscious that he was pointing it at Mr. Justice Swift. He said afterwards: "Suppose, I thought, a cartridge were still left in the magazine and I were to pull the trigger and it were to kill the judge! What a scene! I would indeed have ended my career at the Bar in a blaze of glory. But," he added whimsically, "I should have had a perfectly good defence. I would have said the same thing had happened to me as happened to Madame Fahmy, and we should both have got off."

ARMED JUSTICE.

Recently, the Law Courts at Perpignan, in the south of France, were the scene of an outbreak of rioting so violent that soldiers as well as mounted police had to be summoned. The occasion was the trial of twelve men who had been organising a strike among the grape pickers. The prison van was attacked, and, after the men had been sentenced, there was more fighting. Military precautions in the administration of justice have not been witnessed in England since the days when the Fenians, terrorising the country, compelled a martial display at the trial of the "Manchester Martyrs" for killing a policeman in releasing two of their friends from a prison van. Every day the accused were escorted from the gaol to the Assize Court with a squadron of Hussars in front and 500 Highlanders with fixed bayonets behind. Round the van in which they rode was a hollow square of soldiers armed to the teeth. The very corridors of the court were filled with armed men. At their execution two batteries of artillery, in addition to the other troops, guarded the prison.

In the professional examinations of the Auctioneers' and Estate Agents' Institute of the United Kingdom, which were held this summer, no candidate obtained sufficient marks for inclusion in the final first-class honours list. In the second-class honours, Derek Chappé Sidebottom, London, was first, and John A. E. H. White, Sutton, Surrey, was second.

THE LAW SOCIETY AT HASTINGS.

ANNUAL PROVINCIAL MEETING.

[By our Special Representative.]

The fifty-first Provincial Meeting of The Law Society was held at Hastings from the 23rd to the 26th September, under the presidency of Sir Harry Goring Pritchard. The visitors were entertained by a strong and able committee of the Hastings and District Law Society under the presidency of Mr. A. D. Thorpe, whose two honorary Secretaries were Mr. W. H. Langdon and Mr. P. E. W. Walker.

The following Members of Council were present: Mr. R. Armstrong (Leeds), Mr. D. L. Bateson (London), Mr. E. E. Bird (London), Mr. H. R. Blaker (Henley), Mr. W. A. Coleman (Leamington Spa), Mr. G. A. Collins (London), Mr. F. J. F. Curtis (Leeds), Mr. H. A. Dowson (Nottingham), Mr. B. H. Drake (London), Mr. D. T. Garrett (London), Mr. W. A. Gillett (London), Sir Roger Gregory (London), Mr. H. C. Haldane (London), The Right Hon. Sir Dennis Herbert (London), Mr. E. S. Herbert (London), Mr. R. F. W. Holme (London), Mr. L. S. Holmes (Liverpool), Mr. F. H. Jessop (Aberystwyth), Mr. P. R. Longmore (Hertford), Sir Philip Martineau (London), Lieut.-Col. S. T. Maynard (Brighton), Mr. A. Morrison (Bedford), Sir Charles Morton (Liverpool), Mr. W. R. Mowll (Dover), Mr. W. C. Norton (London), Mr. R. A. Pinsent (Birmingham), Sir Reginald Poole (London), Mr. H. N. Smart (London), Mr. F. E. J. Smith (London), Mr. F. Webster (London), and the Secretary, Sir Edmund Cook (London).

The Right Worshipful The Mayor of Hastings, Alderman Arthur Blackman, J.P., received the President, Council and Members, together with their ladies, at the White Rock Pavilion on Monday evening and entertained them with a dance. Next morning the Mayor welcomed Members in the Pavilion for the serious work of the meeting. He expressed surprise, from his experience of what busy people lawyers were, that they were able to have a conference at all. He did not know whether the question of costs formed part of the agenda, but if it did he begged them to be merciful as they were all-powerful, and to allow him as Chairman the casting vote if the debate should end in a tie. "There is no layman in Hastings," he said, "who has spent more time with a lawyer than I have. Needless to say that time has not been spent particularly for his benefit, nor would I say that one is always wise in taking his lawyer's advice. Business is such that a man must sometimes take a risk which a lawyer would not, by his very training, advise. Nevertheless I have to thank lawyers sincerely for keeping me out of pitfalls into which I might, and would, otherwise have fallen. Speaking generally, the lawyer's advice makes the wheels of commerce run more smoothly and, what is more important, has a restraining effect upon men's passions and makes them see reason, which is sometimes very necessary. A lawless world would mean a state of chaos. Therefore, while we sometimes feel the need to grumble at your fees, yet we realise that it would cost us more if there were no lawyers and no courts of law." He welcomed Sir Harry especially as an authority on local government.

The President, responding to the Mayor's greeting, thanked him on behalf of all members and their ladies, and of himself personally. Praise of the legal profession struck him as a little unusual; lawyers were more accustomed to hear abuse of the profession taken as a whole. He did not know why this should be, but they shared the stigma with plumbers and mothers-in-law. Plumbers were useful and harmless people, and mothers-in-law, if viewed in the particular and not in general, were often most admirable people. His own had been a most delightful lady, and no doubt many members would speak for others who discharged their mother-in-legal functions in a manner which entitled them to all praise. Similarly, there was no one in whom a man placed greater trust than in his own particular lawyer, and so long as a solicitor had the confidence of his clients he was satisfied. It was the custom of the Society, of half a century's standing, to have their autumn meeting in congenial surroundings in various parts of the country. Last year they had been to Newcastle; next year they were going to Nottingham, and the year after that they were going west—speaking quite literally. He was unable to promise the Mayor any concessions with regard to costs, reminding him that, like cabmen, solicitors had their charges fixed for them by Act of Parliament. Hastings had been so hospitable to members that it had almost given them the freedom of the borough, in a more material sense than that implied in the technical use of the term. They were allowed to use the chairs, or such as had escaped the storm, without charge, and those who were hardy enough might enjoy free bathing facilities. Those who had come over from the Eastbourne meeting seven years ago would notice great improvements in Hastings, which was rapidly making itself a borough to which those who did not live by the sea might come for health, recreation and rest.

The Business of the Meeting.

The President then delivered his inaugural address, which is printed in full below. He spoke particularly of the provisions in the new Solicitors Bill which deal with articled clerks. Replying to Mr. Barry O'Brien's criticism at the July meeting, that it was an insult to solicitors to suggest that any of them was so oblivious of his responsibilities that he would appoint an articled clerk whose character was not above reproach, Sir Harry reminded the meeting that, although the very large bulk of the profession were undoubtedly trustworthy, there was a small but not negligible minority whom it was necessary to control by legislation. He also pointed out shrewdly that to be able to blame the Council for refusing a candidate might be a positive boon to a solicitor who could not do so himself without offending a valuable client. The President also referred to the changes in the educational programme which will be made by the Bill, and this subject was developed further by Mr. Herbert Warren (London) in the first paper read at the morning sitting. Mr. Warren wishes to go much farther than the Bill, and to get the examinations in pure law finished and done with before the clerk enters the principal's office. This arrangement would, he considers, allow the candidate to see whether the subject appealed to him and whether he could pass the necessary examinations before he spent money in articles and fees. Mr. Warren is for confining the training at the Society's school mainly to practical subjects, the classes to be held concurrently with the pupil's service in the office. He criticised with a certain severity the education at present given by the school and quoted some statistics showing the extent to which candidates rely on outside teachers. Eighty or 90 per cent. of the examinees, he said, go to a well-known firm of tutors whose pupils usually obtain the best places in the examination. He infers that some alteration in the school is desirable. His views found substantial support in the long and lively discussion that followed his summary of the paper. The general opinion seemed to be that the whole system of education of articled clerks needed drastic revision.

Pitfalls of Land Registration.

Another subject with which Sir Harry dealt in his address was the termination this year of the "close season" for the extension of compulsory registration, laid down by the Land Registration Act, 1925, at ten years. The Act prevented compulsory registration from being extended beyond London except at the request of the county borough or county concerned. Hastings, as a matter of fact, is one of the only two county boroughs to make the request. Sir Harry, though not a conveyancer, sympathises with those of his colleagues who are conveyancers in their objection to encroachment upon their ancient preserves by registration. He suggested that if landowners really wanted registration of title they would register their land voluntarily.

Mr. Harold Potter (King's College, London), while not venturing to condemn compulsory registration in a city peopled by its devoted supporters, drew attention in his paper on "Contracts for Sale of Registered Land" to a number of features which prevent registration from being as easy as it sounds. He advocated a separate form of contract instead of the incorporation of a few special clauses in the ordinary printed form. The contract, he said, must state the nature of the title to a freehold unless it is absolute, or the purchaser may find himself, as in a recent case, unable to get specific performance. He pleaded strongly for the abolition of the filed plan, with the possibilities which it introduces of difference from the general map at the Land Registry. He considers that the weakest link in the chain of registration of title is the fact that a transferee takes

subject to all over-riding interests whether they are registered or not, and that it is not the practice of the Registry to enter these interests, except way and drainage. The vendor has to furnish the Registry with evidence of such interests, but the Registry officials do not like producing documents relating to matters not on the Register, and perhaps even cannot be required to do so. He suggested that all such rights should be entered in full on the Register and that s. 110 should be altered. If the entry on the Register is not the last word in the matter, but practitioners have also to inspect a number of additional title-deeds, obviously registration contains many of the objections urged against the present system of conveyancing.

Reform in the Police Court.

Mr. J. S. Walsh (Leeds) put forward some suggested reforms in connection with courts of summary jurisdiction, which he held would clear away some of the complicated and archaic anachronisms which impede the administration of justice by magistrates. Among these he mentioned the distinction between house-breaking and other forms of larceny, by which a man who enters a house through an open door and steals a valuable piece of jewellery may be tried simply and inexpensively in a police court, whereas if he has to open the door and takes a packet of cigarettes the justices must transcribe all the evidence and commit him for trial. Mr. Walsh regards as one of the worst features of procedure in the police court the necessity for hearing the same offence twice and taking down every word of the preliminary enquiry in long-hand. Committal should, he considers, be much easier and swifter and not involve a preliminary hearing. He also desires to see an increase in the present maximum amount—£2 per week for the wife and 10s. for each child—which a court of summary jurisdiction can award under a maintenance order. Whereas the middle-class wife with a matrimonial complaint is forced into the morass of divorce procedure, the wife of a working man earning up to £3 a week can obtain satisfaction in a few days. He joins with many other authorities in a plea for the private hearing of matrimonial cases. He also desires the powers of lay magistrates to be considerably reduced, and the decision in difficult questions of law to be taken as far as possible out of their hands. He is for the fortification of lay benches by stipendiaries on a large scale. This paper also aroused considerable discussion.

Another speaker who advocated large additions to the judicial machinery of the country was Mr. R. Graham Page (Bournemouth). Mr. Page's solution for the traffic problem is to set up special road traffic courts which will not only adjudicate but will also investigate the causes of accidents, collect knowledge and experience, and, in an advisory capacity, legislate. These courts would have criminal and civil jurisdiction and fulfil all the road traffic functions of the present courts, the coroner, the traffic commissioner and the chief constable. The number of these new courts he places at the modest figure of 500, each with a traffic judge and a traffic registrar sitting concurrently for five days a week. There would also be a taxing master. A traffic prosecutor, with junior counsel, solicitors and clerks under him, would settle not only the Crown cases but also civil procedure. Mr. Page's scheme would have the advantage, at any rate, of providing work for many members of a needy and meritorious profession.

The functions of local authorities are becoming wider every year as social legislation increases in volume and complexity. Mr. Percy E. Dimes (London) contributed a useful paper on the municipal service as a career for solicitors. The burden of his lesson was that the municipal service is not as bad as one might think, and there is no need for a person with the right amount of ability and common-sense to find his individuality unnecessarily cramped. Pay, holidays and security are all good.

Poor Men's Lawyers.

The President very properly commented in his address on the working of the poor persons' procedure, by which thousands of wives and husbands have been freed from their erring spouses and thousands of pounds have been recovered by persons who would otherwise have had no hope of recovering them.

Mr. H. Wentworth Pritchard (London) spoke of the work of the "poor man's lawyer" centres. These are administered by a panel of lawyers who attend in rotation on one evening in the week for two or three hours. Any room will do, such as a church hall, and all that is required is some simple furniture, a few books of reference and a filing system. Often a "poor-box" is displayed on the table for voluntary offerings. The problems run on fairly well-defined lines and are chiefly concerned with rent restriction, matrimonial disputes, workmen's compensation and hire-purchase agreements. The clients are generally grateful, and especially for the opportunity of talking over their troubles with a sympathetic and authoritative person. Mr. Pritchard thinks that the success or failure of the present system will determine, to a large extent, the status of the legal profession in the future, for he sees as its alternative only speculative practice, probably leading to State-provided legal aid.

Mr. R. W. Hurlstone Hortin (London) contributed a short but useful paper on Execution of Judgments. He said that he had yet to see hardship in the interpretation of the Debtors Act, except to creditors, and that it was time to repeal the Act with its foolish anomalies. He is in favour of attaching wages and salaries, as in Scotland.

Mr. G. B. Ellis (London) delivered an address on the specialised subject, little known to the average solicitor, of litigation at the Patent Office. Thirty or forty of the actions which are brought every year, he says, concern what virtually amounts to trade-mark infringement. He claims to have prevented patent infringement actions by opposition proceedings.

Entertainments.

On Tuesday afternoon Lady Pritchard welcomed lady members of The Law Society, and the ladies accompanying members, to tea at the Queen's Hotel. The Banquet was also held at the Queen's Hotel, with Mr. Thorpe in the chair. The business of the conference came to an end at lunch-time on Wednesday, and in the evening the Hastings and District Law Society invited members and visitors to a performance by a concert party at the White Rock Pavilion. Two tours were arranged for Thursday; one to Bodiam Castle, Winchelsea and Rye, and the other to Hurstmonceux Castle, Pevensey Castle, Eastbourne and Battle Abbey. This country is, of course, the site of the landing of the Conqueror's forces, who were able to disembark on the easy beach of the Pevensey Level and deploy into the low hills behind with little disturbance. The Normans established these strongholds to protect themselves from invasion in their turn, and their strategic problems could be visualised with great ease from the higher ground. The Eastbourne Law Society entertained the second party to lunch; the first party took lunch with Lord Blanesburgh at Winchelsea and tea at Rye with Mr. E. F. Benson, the mayor. Members and their ladies attended a dance at the Queen's Hotel in the evening.

The President's Address.

Sir Harry Goring Pritchard, the President, delivered the following address:—

In this year of grace we are quite accustomed to jubilees and centenaries, and we know what is meant by a silver, golden or diamond jubilee, but I do not know the correct metal or precious stone which furnishes the proper description of the 110th anniversary, and it is the 110th anniversary of the formation of this Society which we celebrate this year.

The Society was originally constituted by Deed of Settlement, but that has been superseded by Royal Charters, the first in 1831. I do not propose to occupy your time, which is very limited, by the history of the Society during the 110 years; that is set out in detail in the Handbook, and was dealt with in his address by the late Sir Herbert Gibson, the then President, on the occasion of the centenary in 1925. I would, however, mention that, although this Society is only 110 years old, it really represents the growth or reconstitution of a society formed very much earlier, namely, in 1739. The full name of that society was "The Society of Several Gentlemen Practisers in the Courts of Law and Equity," but if you refer to their minute book you will see that in fact they used the same title as ourselves—The Law Society. Bearing these circumstances in mind, I think that we have some justification for saying that we are rapidly approaching our bi-centenary—quite a respectable age.

One of the principal functions which the Society is called upon to discharge is to ensure, so far as may be, that the only persons who can be admitted into the profession are those who, by reason of their character and of their general and legal education, are fitted to undertake the responsibility of practising as solicitors.

As regards character, we have hitherto relied upon the certificate of the solicitor to whom the clerk is articled. Before the latter can sit for his intermediate or final examination, and again before he can be admitted, he must produce a certificate from his principal that he is a fit and proper person to be admitted. I should like to impress upon the present members of the profession that this is no mere idle form, and that although the clerk may have served three, four or five years, and although the principal may have received a premium, he is not only justified, but bound, to withhold the certificate if, in his opinion, the clerk does not bear the character of a fit and proper person.

In future, however, if our proposals meet with the approval of the Legislature, we shall not rely solely on the principal's

certificate. Those of you who have taken the trouble to read this year's Annual Report of the Council and the draft Bill appended thereto, will have seen that if the Bill passes into law no one will be allowed to enter into articles of clerkship until he has furnished the Council with such evidence as to character and otherwise as may be required by regulation, and until the Council are satisfied with the evidence so furnished. The report containing this provision was agreed to almost unanimously at the Annual Meeting of the Society in July, but the provision was criticised, and oddly enough it was described as an insult to solicitors even to suggest in an Act of Parliament that some of them are so oblivious of their responsibilities that they would accept as an articled clerk one whose character is not perfectly fitted to justify his admission into the profession. While I am quite prepared to agree that in ninety-nine cases out of 100—or perhaps 999 out of 1,000—we may be trusted to see that no improper person is accepted as an articled clerk, there are, you will remember, more than 15,000 solicitors on the roll, and we have no guarantee that the old hundredth—or, if you like, thousandth—will have such a high regard for the future of the profession.

Apart, however, from this consideration, it appears to me that this provision may prove useful to us. Some of you may have had the experience, which is by no means unknown, of a valued client wanting to article his son—or maybe his daughter—to you, whilst you happen to know that the person in question is—shall we say—eminently unfit. To some of you possibly the loss of a client may not be a serious matter, but to others it is, and it requires a good deal of tact to tell a father that his favourite son or daughter possesses a character which will not bear investigation, and still retain him as a client. In future, if our Bill passes, you will in such cases be able to shift some of your responsibility on to the Council.

But I wish to make it clear that, even when the Bill has become law, we shall still be bound to rely upon every solicitor who takes an articled clerk to give the required certificate only in those cases where he is satisfied that the clerk is a fit person to enter the profession.

Apart from his character, we have to be satisfied as to the prospective solicitor's general and legal education. As regards his general education, we set a preliminary examination. In my young days it was said to be a particularly easy examination which any fool could pass (I did not pass it myself, but then I did not try for it), but nowadays, judging by the number of failures, it is by no means easy, and to pass it requires a fair degree of intelligence and ability. There are some side entrances—I came in by one myself—and we are always anxious to ensure that these are not substantially easier than our own preliminary. We are proposing, by the Bill I have mentioned, some changes in regard to these examinations which I referred to as "side entrances." In particular, we want to ensure that an examination which exempts a candidate from the regulation examination for admission into a university shall not be regarded as sufficient for our purposes unless it is approved by the Council, and that no examination shall exempt from the preliminary unless Latin is one of the subjects in which the candidates are required to satisfy the examiners.

By the Act of 1932 the Master of the Rolls has power to grant exemption from the preliminary. The responsibility for granting exemption rests, of course, entirely with the Master of the Rolls, but in fact it is his lordship's invariable practice to consult the Council, by whom the subject is referred to the Professional Purposes Committee, and the latter, before coming to any conclusion upon the advice to be given, have full information as to the age and educational attainments of the applicant, his war service, if any (the cases of war service are, of course, becoming rare), his employment since leaving school and other matters. The Master of the Rolls has been good enough to discuss with some members of the Council the principles upon which exemption may be granted, and I am glad to say that in principle we are entirely in agreement with him. Without disclosing any secrets, I think I may say that it is very difficult for any young man or young woman to obtain exemption, and that is as it should be.

Having surmounted these difficulties and become an articled clerk, the next question is how is he to employ his time, and in particular how much time shall be devoted in acquiring an adequate knowledge of the law by a perusal of books and attendances at lectures and classes, and how much in learning the details of the profession by attendance at his principal's office. There are two schools of thought: some think that attendance at the office is by far the most important part of his education, and that he can acquire sufficient knowledge of law in his spare hours, others, on the other hand, think that the knowledge of law which it is necessary for a solicitor to possess is so vast that it must occupy so much of his time as seriously to prejudice his work at the office.

Between these two extremes it is necessary to find a middle course and that is by no means easy, because when all is said and done the time allowed for the training of an articled clerk is hardly long enough. Indeed, in certain cases, we are seeking, by the Bill already referred to, to increase the period of service from four years to four and a half years.

A very important change in the training of an articled clerk was made in 1922, when, by the Act of that year (now superseded by s. 32 of the Act of 1932), it was made compulsory upon every articled clerk, unless exempted owing to geographical or other reasons, to attend a law school for a year. It is noteworthy that by the same Act every practising solicitor is required to contribute to the cost of maintaining these schools. We were already taxed, mainly for the benefit of the Exchequer, though I have never been able to understand why, and on top of that we make an annual contribution not for our own benefit, but for the benefit of those who enter the profession in competition with us. It is, I think, significant of the public spirit of the members of the profession that, recognising as they do the great importance, in the public interests, of ensuring that future members shall be adequately trained, no complaint, so far as I remember, has been made in regard to this additional contribution.

The obligation imposed upon an articled clerk to attend a law school curtails still further the time which he can devote to office work, and some members, not unnaturally, object to this. It is a matter for consideration whether it is not best to avoid, so far as possible, the overlapping of learning law and attending to office work by arranging for the clerk to attend the school only either during the first year of his articles or for a year before he is articled. In the latter case, as you know, the clerk can obtain a year's exemption in his period of service. This course has incidentally the advantage that when he attends the office he is already equipped with a rudimentary knowledge of the law, and will, at all events, understand the terms which we use.

Before leaving the Bill I might refer shortly to the other provisions, all of which, as I have intimated, have been accepted at the Annual Meeting. By cl. 1 no solicitor who has not been practising for five years will be allowed to take an articled clerk unless specially authorised. This obviously is desirable, because most of us have not had sufficient practice, or indeed sufficient experience, to justify us in undertaking the training of an articled clerk until we have ourselves been practising for at least five years. There will no doubt be exceptions and these will be met by the power of exemption given to the Council. The only other clause to which I need refer is cl. 3, whereby, in certain circumstances, the Council will be empowered to cancel articles of clerkship on the application of the principal or the clerk. This power will very rarely be needed, but I would remind you again that there are more than 15,000 solicitors on the Roll, and cases have occurred, and will no doubt occur again, where in fairness to the clerk, or it may be to the principal, the articles should be cancelled.

I have occupied a good deal of your time with these subjects, but I do not think that any apology is required, because you will agree with me that the question of the selection and training of the future members of the profession is one of very great importance.

Meeting as we are in the ancient borough of Hastings, it is impossible to avoid a reference to the engagement which took place in this neighbourhood eight hundred and sixty-nine years ago. It may be that those of you who have had practical experience of modern warfare would not regard the Battle of Hastings as more than a slight skirmish, but, however that may be, it certainly had very important results, and it might be interesting for one better acquainted with legal history than I am to speculate upon what the result would have been, as regards both our laws and our language, if our Saxon forefathers had defeated our Norman forefathers. One of the remarkable institutions which, I suppose, owed its inception, or at all events its growth, to the Normans is trial by jury, and that indeed is an excellent example of a practice which we should not dream of adopting if we had not become used to it. We have our judges, who by many years of training are best able to sift and weigh the evidence, and yet when we come to questions of great importance we do not allow them to decide which is right or wrong, but drag twelve men away from their own engagements, pay them practically nothing by way of compensation, make them listen for hours, or may be days, to a discussion of matters in which they have not the faintest interest, and then expect them to arrive by unanimous agreement at a right decision upon the evidence laid before them. Theoretically it seems all wrong, but it furnishes a good example of a practice which may be wrong in theory but which, on the whole, works well, and to which we are so accustomed that it would be almost regarded as heresy to suggest its total abolition.

The richness of our language is largely due to the mixture of the Norman with the Anglo-Saxon, and, notwithstanding

that richness, and it may be in consequence of it, it is by no means an easy matter to express what we may have to say so that there may be no doubt as to our meaning. Laymen speak in contemptuous tones of "legal jargon," not appreciating the difficulty of the task with which we are confronted, when drafting any document—it may be a deed, an agreement, an Act of Parliament, or merely a letter—of finding words which express exactly what we mean in such a way that they can have no other meaning.

As an example of the difficulties with which we are confronted in expressing our meaning, may I refer to a decision* given a few years ago, which is remarkable both for the apparent simplicity of the question to be decided and the divergent judicial opinions expressed. By the terms of a lease the lessee covenanted to insure the demised premises against fire in a named office "or in some other responsible insurance office to be approved of by the lessor." The lessee did not want to continue insurance in the named office, and the only question to be decided was whether on a fair interpretation of the words I have quoted, the lessor had an absolute right to withhold his approval of an alternative office which admittedly was quite responsible. The question is one upon which few of you would hesitate to express a definite opinion, indeed we should probably trust our managing clerks to give a correct opinion on the subject, and probably the office boy would not think himself incapable of doing so. And yet the case, which went to the House of Lords, had to be considered by no less than eight of His Majesty's judges, four of whom, including the majority in the House of Lords, decided, in favour of the lessor, that under the covenant he had an absolute right to withhold his approval of an alternative office without giving any reason, and four of whom decided in favour of the lessee and held that, if the alternative office fulfilled the condition of being responsible, the lessor must come to a reasonable decision in accordance with the considerations which would guide a reasonable person in deciding whether a particular insurance office was or was not suitable for the purpose of meeting a loss by fire.

Here we have the case of a simple covenant in a lease, a document which the draftsman probably had ample time to consider; he knew exactly what he wanted and used a phrase which no doubt he thought not only expressed his meaning but could mean nothing else, and yet we see, when the case comes before the courts for determination, that there are two possible interpretations and that eight of His Majesty's judges are equally divided as to which is correct.

I mention this decision to illustrate the difficulties of a draftsman, but I should like you to contrast what appears to be a comparatively simple task in this case with that of a parliamentary draftsman. The latter, when drafting his Bill in the first instance, presumably knows what is wanted (though I am not sure that this is always a safe assumption), but during the passage of the Bill through Parliament there are five or six or even more stages at which amendments can be made. In many Bills the amendments are numerous, and as a rule some of them do not appear upon the paper until the day on which they are to be dealt with, and sometimes not even then. The draftsman, frequently at short notice, has to consider these amendments and the effect which they may have on other provisions already in the Bill, and he generally has to lick them into shape. In these circumstances is it surprising that one sometimes finds an Act of Parliament the drafting of which is somewhat obscure?

I have always thought that one of the most difficult duties which the President has to perform is to prepare the Address for the Provincial Meeting, and in my case the difficulty is enhanced because the Society, in their wisdom, have selected as their President one whose functions are not the same as those of most solicitors. There are many partners in my firm, with the result that we specialise, and I practise almost entirely as a parliamentary agent. I fear, therefore, that you would find me wanting in experience if I were to address you on conveyancing or the practice in the courts; on the other hand you would probably not be interested if I dealt with the promotion of, and opposition to, Bills in Parliament. All that I will say about private bill legislation is that when my father first started practising as a parliamentary agent he was told that it was a dying industry and could not last long—that was in the early 'sixties of the last century. It is, however, still alive, though undoubtedly there are now far fewer Bills to promote and oppose than there were before the war.

Although, as I have said, my experience of conveyancing is very limited, I feel bound to call attention to the fact that this is the tenth anniversary of the passing of that mass of legislation which dealt with the law of property and kindred subjects in 1925. How far that legislation has proved successful I am unable to say; no doubt it was useful to abolish some of the quaint tenures which I remember reading about for my final, and to simplify the dealing with land the subject of trusts. But I have an impression that, whilst the Acts have simplified the transfer of property comprised in large estates subject to elaborate settlements, it may be that they have not facilitated to the same extent transactions of a simpler character. The subject is one upon which I hoped to have a paper this year—perhaps we may have one next year.

The expiration of the decade since the commencement of the Land Registration Act, 1925, will mark the end of what we may call the "close season" for the extension of compulsory registration. By the Act the system was not to be extended to any other areas beyond London except at the request of the council of the county borough or county concerned, and, although the subject was considered by several of such councils, only two of them (one being Hastings) decided in favour of making the request. The ten years will expire next January, and the powers that be have already given an indication that they intend to extend the operation of the Act, though not, I trust, to any large extent. The county which has been selected is Middlesex and for various reasons, if an extension is to take place, that would seem to be the most suitable county. I have already hinted that my practical experience of conveyancing matters is well nigh negligible, but it seems to me that if registration of title were a real benefit to landowners, who are well able to express their opinions and to give effect to them, they would have their land registered, and that it is not necessary for the State to step in and force them to do so. As a matter of fact, the old system of conveyancing (although like trial by jury it may theoretically be open to criticism) has worked well, and we in this country much prefer to conduct our business ourselves and without the assistance of officials.

Much discussion has taken place during the last few months on the subject of the steps to be taken to ensure that the practice in the King's Bench Division shall be conducted by more businesslike methods, and amongst the objects sought to be attained are presumably a shortening of the interval between the commencement of an action and the trial and enabling the parties to have more definite information when the trial will take place. A large quantity of evidence has been given before Lord Peel's Royal Commission, much of it conflicting, and it will, I imagine, be no easy matter for the Commission to arrive at their conclusions.

One question upon which many of the witnesses have given evidence is whether we have a sufficient number of Common Law judges. By the Supreme Court of Judicature Act, 1925, as amended by the Act of this year, the number of judges of the King's Bench Division is nineteen, but so long as there are seventeen judges a vacancy cannot be filled except on resolutions passed by both Houses of Parliament. The corresponding figures in the Act of 1925 were seventeen and fifteen, and in practice it was, I think, usual for these resolutions to be passed.

The real difficulty arises from the fact that at several times of the year the majority of the judges are spread over the country. It is somewhat remarkable that in the case of courts of inferior jurisdiction we divide the country into districts and assign a judge to each, but adopt no such system in the case of High Court judges, and I do not suppose anyone would advocate our doing so. The assize system has been handed down to us through centuries, and on the whole it works well, and will, of course, continue, but some contend that changes might be made in the selection of the towns which have the privilege of being assize towns. It is, they say, difficult to justify sending a High Court judge to the little town of Huntingdon, with a population of about 4,000, and not to the large city of Sheffield, with a population exceeding half a million.

We are told that delays in law are hateful and no doubt when an action is commenced it is desirable that there should be no undue delay in bringing it to trial, but it is also desirable that there should be no undue haste. The main object is to ensure that justice is done, and to effect that object adequate time must be allowed in the preparation of the case, and in complicated matters that may require considerable time. Moreover, many of you will have had experience of instances where, as the result of delay, a satisfactory settlement has been effected before incurring the expense consequent on the delivery of briefs. You may have had cases where a somewhat hot-headed client is determined to fight contrary to your advice, but whose ardour evaporates owing to the delay, and who then can be persuaded to accept a reasonable settlement.

One partial remedy for the delay in the trial of actions would be to enable the judge to try more cases by curtailing the time occupied by each. I have no desire to criticise unduly the members of the other branch of the profession.

* *Lord Tredegar* v. *Harwood* [1928] Ch. 59, and [1929] A.C. 72.

Sir HARRY G. PRITCHARD, Kt.
Solicitor,
President of The Law Society, 1935-6.

but it will, I think, be the general experience that cases nowadays occupy a longer time than in the past. I know that that is so in regard to cases before Parliamentary Committees, and I believe that that applies also to the trial of actions in the High Court. I do not suggest for a moment that counsel in their own interests drag out a case unduly—indeed it might often serve their interests better to bring it to an early conclusion—but it appears to me that time is frequently wasted by the introduction of unnecessary and sometimes irrelevant details. Counsel may perhaps rejoin that we on our part introduce unnecessary details in our instructions; that, however, is unavoidable, because it is essential that counsel should be told the whole story, and many circumstances, which in the first instance appear to be irrelevant, may turn out to be important owing to the action of the other side. I fully recognise the difficulty in which counsel is placed; if he omits to make a point upon which he has been instructed and loses the case, he is apt to be blamed, but nevertheless I feel sure that in some cases the waste of time could be avoided.

Whenever I have intruded into the High Court I have generally seen the judge apparently taking elaborate notes in long-hand of what the witnesses say, and he always has my deepest sympathy. This not only involves a shocking waste of time, but is open to two other objections. In the first place, it deprives the judge of the full opportunity of keeping his eye on the witness, and when evidence is being given a good deal is learnt by what is seen as well as by what is heard, and, in the second place, we ascertain the truth largely by cross-examination, and in the case of an untruthful witness cross-examination is much more effective if question can follow answer without giving him too much time to think. The obvious remedy is to have a shorthand writer, and I have no doubt that this remedy will be applied before long.

I express no opinion myself as to whether more judges are needed, because I do not feel myself qualified to do so, but I would say emphatically that if they are needed there ought to be no hesitation in appointing them on the ground of expense. I say that because it seems to me that practically the whole cost of administering justice in the Supreme Court is, I think most unfairly, borne by the litigants. The figures for 1934-35 have not yet been issued, but, from the published account of receipts and expenditure of the High Court and the Court of Appeal (which together constitute the Supreme Court) for the financial year ended 31st March, 1934, it appears that the expenditure attributable to the civil business of the court during that year was £725,395, while the court fees taken in respect of such business alone amounted to £789,148. These court fees included the fees taken in respect of the non-contentious work of the Probate and District Probate Registries and in the Management and Administration Department under the Lunacy Acts, but the fact remains that, between them, the litigants and those who are required to have recourse to the non-contentious departments of the Supreme Court more than defrayed the whole expenditure upon the civil business of that court and that the State is carrying on that business at a profit. That is all wrong. It seems to be assumed that the elaborate provision which is made for the administration of justice is for the benefit only of litigants. A moment's thought will show that that is not the case. Why do people pay their debts and pay compensation for the wrongs which they inflict? Largely, no doubt, because they are honest, but largely also because they know that machinery has been provided and has only to be set in motion to make them pay. This machinery is provided, therefore, for the benefit of the whole community, and should be paid for by them and not by the litigants. Court fees have been considerably increased in recent years, and there is, I submit, a case for a substantial reduction, thereby reducing *pro tanto* the cost of litigation.

However, having expressed my opinion on the subject, I am not so optimistic as to expect that any effect will be given to it. But there is an old saying that he who pays the piper should have the right to call the tune. We could not apply this principle in its entirety, because the plaintiff and the defendant would probably not agree in the selection of the tune, and discord would be the result, but at all events they should have a better opportunity of saying when the tune is to be played.

In connection with this subject, I should like to call attention to the resolution which was passed at the General Meeting of the Society last January, and which reads as follows:—

> "That the Council be urged to consider the serious prejudice to litigants and solicitors in cases where Counsel duly briefed for trial of action, is prevented from fulfilling his engagement owing to his appearance in another Court and to make such representations as will lead to the appropriate remedy."

This, as I understand it, was not intended to be a reflection upon counsel, but was passed in order to call attention to a matter which adversely affects our clients, i.e., the public. To have to return a brief because he is engaged in another case coming on—it may be by accident—at the same time must be most disagreeable to counsel. He may have been in the case from the beginning, have drawn the pleadings, advised on evidence and read his brief and be thoroughly conversant with the matter, and by returning his brief he not only loses fees but runs the serious risk of offending his clients, both lay and professional. In some cases this must always be unavoidable, and the object of the resolution passed at the general meeting was to secure, if possible, some alteration of procedure which would reduce the number of such cases. In this matter the interests of the Bar and ourselves are identical, and obviously, therefore, the first step for us to take was to communicate with the Bar Council. This was done, and you will find their reply in *The Law Society's Gazette* for August. It is not particularly helpful, and concludes by expressing the view that it would be impossible for the inconvenience to be entirely obviated until the Bench is sufficiently strengthened to enable cases to be heard on fixed dates.

That is the considered view of the Bar Council, from which I am not prepared to dissent, and if the State insists upon litigants paying the whole, or even a substantial part, of the cost of administering justice, steps should be taken on the lines suggested by the Bar Council to remove the evil referred to in the resolution.

These somewhat disconnected observations would not be complete without some reference to the poor persons' procedure. For centuries very poor persons have had special privileges for the avoidance of payment of fees and for free legal assistance when suing in the courts, though at one time this does not appear to have been encouraged because, although an unsuccessful plaintiff suing *in forma pauperis* could not be required to pay costs, he ran the risk of being whipped. That appears to be a little drastic, and I imagine that in those early days a person would hesitate before taking advantage of the privilege unless satisfied that he had a very clear case. I do not however propose to discuss the history of this matter, but to proceed at once to the year 1925 when, as the result of the report of a committee over which Mr. Justice Lawrence, as he then was, presided, and which included two members of the Council, namely, the late Dr. A. H. Coley and Sir Roger Gregory, the present system was brought into operation. The report was based upon a scheme put forward by the Council of The Law Society after consultation with the Provincial Law Societies, the essential feature of the scheme being that the whole administration should be in the hands and under the guidance of our profession as represented by the several Law Societies. Under this scheme, throughout England and Wales committees are formed who investigate applications, and who, if satisfied that the applicant is a poor person within the meaning of the rules and has a *prima facie* case to be dealt with in the High Court, nominate a solicitor, and when necessary counsel, and neither solicitor nor counsel receives any remuneration. The Council, when putting forward this proposal in 1925, felt confident that it would receive the support of the profession, and I should like, on their behalf, to thank the profession for showing without question that that confidence was justified, and to thank those numerous members who take an active part in carrying the scheme into effect. I mentioned above, in connection with another matter, that the machinery for the administration of justice has been provided, but, like other machinery, it is of no use until it is put into operation, and for that purpose expert legal assistance is required. That assistance is now given to poor persons without remuneration, and the result of the nine years' operation of the system is that thousands of wives and husbands have been freed from their erring spouses and thousands of pounds have been recovered by persons who, without this procedure, would have had no hope of recovering them. It is safe to assume that in this country many people are living happier lives than would have been possible if it were not for the scheme brought into operation nine years ago.

Of course I am fully aware that these circumstances are well known to those whom I am addressing, but they are not so well known to the gentleman we sometimes refer to as "the man in the street," and I am repeating them in the hope that they may reach a larger audience, and that when our merits and demerits are being weighed we may be given some credit for what we are doing on behalf of poor persons.

However, we should be unable to assist the poor unless we were able to make a living for ourselves and for those dependent upon us, and that brings me to the subject of costs, upon which I have a few observations to make.

Our charges, like those of railway companies, cabmen and certain others, are fixed under Act of Parliament, and in our case there is a special procedure for determining the amount. I make no complaint about this, but I want to say a word or two about the quantum. The basic scale as regards litigation was, I believe, determined as long ago as the early 'seventies of the last century, and, as regards conveyancing and other matters not being litigation, in the early 'eighties. Since then great changes have taken place, the cost of living has gone up, great increases have taken place in such matters as rent, rates and taxes, and our clerks very properly expect and receive remuneration on a much higher scale than fifty or sixty years ago, so that the actual profit which comes to the solicitor is materially reduced. This was recognised (perhaps not fully, but at all events partly) in the percentage additions which we have been authorised to make since the war. In 1919, the addition was fixed at 33⅓ per cent., and most of us regarded that as permanent. However, in 1931, the country was passing through a severe financial crisis, and in consequence reductions were made by the Government in the payments to many classes of persons, including the payments to the unemployed, the remuneration of judges, government servants, teachers, police and others. Consequently, the then Lord Chancellor, Viscount Sankey, suggested that a reduction should also be made in the remuneration of solicitors, not, as I understand it, because he thought that our remuneration was excessive, but because so many members of the public had suffered a reduction in their incomes. Accordingly, at the express request of the Lord Chancellor, and for reasons given by him, the profession agreed to a reduction in the percentage additions, as regards litigation to 25 per cent. and as regards other matters to 20 per cent.

Now we are told that the financial crisis is passed, at all events sufficiently to enable the Government to restore the cuts which they made in 1931, and that being the case, we are clearly entitled to ask for a restoration of the cuts which were made in our case.

In conclusion, may I refer to some of the Acts which have been passed during the present session. The session has not yet terminated, and when the complete volume of Acts reaches us it will be found to be heavy, though not, I trust, so heavy as the record volume of 1925. Moreover, in that year, the weight was largely due to the Law of Property and similar Acts, with which we were expected to make ourselves familiar, whereas in the present case the bulk will be largely due to the Government of India Act, which, although of great interest politically, will probably not necessitate a careful perusal by most of us.

There are, however, some other Acts which will require our attention. The Law Reform (Married Women and Tortfeasors) Act was passed upon the recommendation of Lord Hanworth's Law Revision Committee, which has done such useful work, and upon which we were represented by Sir Reginald Poole and Mr. Mortimer, and are now represented by the latter and Mr. Haldane. The Act abolishes two principles which might almost be regarded as old friends, the first that a husband is liable for his wife's torts, and the second that there is no contribution between tort-feasors. In future, husbands will be able to sleep peacefully knowing that if their spouses choose to commit torts they alone will be responsible. There will no longer be the same force in the saying that it is better for a man to keep a dog with a savage temper than to marry a wife with a venomous tongue, because he can kill the animal and cannot even lock up the woman.

The same Act deprives a married women of her privilege in regard to bankruptcy, and makes her subject to the law relating to bankruptcy as if she were a mere man. This, it may be remembered, is in accordance with the recommendation embodied in the resolution passed by the Society at their Provincial Meeting held in 1931.

There is also an Act which rejoices in the strange title of the Restriction of Ribbon Development Act (as if anybody wanted to restrict the development of ribbons). It may have some far-reaching results, and will require attention, particularly when purchasing land abutting upon highways with a view to its development.

The Housing Act, 1935, makes some important alterations in the law relating to housing. Amongst other things it removes what landowners have always thought to be a grievance, namely, that where a house is not insanitary in itself, but is rendered dangerous to health by reason of its neighbours, it is liable to be condemned or to be purchased on payment of site value. I believe that for some time past this principle has not been acted upon, and it is now abolished by the Act.

Those of you who are interested in public health administration, and I suppose that all of us are more or less concerned in it on one side or the other, may like to know that a new Public Health Act may be expected before long. The whole subject is being investigated by the Committee who were responsible for the Local Government Act, 1933, and they are expected to produce a Bill which will not only consolidate the existing enactments but will make numerous alterations in them, some of them possibly of considerable importance. You have therefore the prospect of having to learn new law on this important subject.

May I add that it is the President's privilege on these occasions to express his own views, and it must not therefore be assumed that my colleagues, from whom I sometimes have the misfortune to differ, concur in all that I have said.

A vote of thanks to the President for his address was proposed by Mr. F. C. GREGORY (President, Liverpool Law Society), who commented on the wide scope of the address and said that Sir Harry Pritchard had shown his qualifications to be editor of an encyclopedia of law. The vote of thanks was seconded by Mr. WILLIS PATERSON (President, Manchester Law Society), and carried with acclamation.

Mr. HERBERT WARREN (London) read the following paper:—

LEGAL EDUCATION.

My interest in this subject was first aroused by a paper read before the Hertfordshire Law Society by one of its members—a most exhaustive, and I might almost say, exhausting, paper in its detail, as I have told him. It raised great interest at that Society's meeting and I believe acceptance, and at a recent meeting of the same Society I outlined my present proposals, and I was requested to prepare a paper to be circulated among members of the Society and this is the result.

I am afraid my title, "Legal Education," may be a little misleading. I do not propose in this paper to deal with legal education in its larger sense—it would be a task beyond me—I only propose to deal with legal education as it concerns our own profession—and those proposing to enter into it—and to point out what seem to me fundamental defects in such education as it now stands. As matters are now arranged, an articled clerk enters his principal's office (unless he has for ten years been a *bona fide* clerk in a solicitor's office or previously obtained a law degree or passed some law examination, or complied with Part II of the Solicitors Act, 1932) without any knowledge of law at all. It is very difficult for the principal to give him anything to do at first. In the old days he probably would copy abstracts and drafts—and get thereby a considerable knowledge of the run of documents—but you would not get an articled clerk in these days to do this work—it would be relegated to the typist—and at first he can only pick up miscellaneous information from what he sees going on in the office. He has, moreover, to attend law classes at the law schools (if possible, during his first year), which classes are held at hours sufficiently various to upset any regular office attendance.

He has, sooner or later, to take some months off for preparation for his Intermediate and Final Examinations, and, all through his articles, he has to do a certain amount of reading. These interruptions, some of which would admittedly occur under the present system, even if no compulsory attendance at the law school were required, whether he is a three, four, or five-year man, take a considerable slice from the clerk's time in the office. Consequently, it is extremely difficult for the pupil to see a particular piece of work right through to its completion, and it is difficult for the principal to entrust to his pupil much work that he would otherwise give him. The clerk is always being interrupted, as I say, with classes, reading, or preparation for examinations, and at the end of the articles he very probably has far less knowledge of the practical work of a solicitor's office than he should, from having had to spend so much of the period of his articles in attending classes and reading for examinations, and has to remain on in his principal's office, or take a post elsewhere at a low salary to acquire the practice and experience he lacks.

My proposals are to alter all this. I suggest that the clerk should take his examinations in pure law (not practice) *before* entering his principal's office. This would mean passing examinations equivalent to what are known now as the Intermediate and Final Examinations—modified by the exclusion of practice therefrom—unless such examinations are excused by reason of the pupil having taken a legal degree at a university in a form approved by the Society—the subjects for such degrees being, if necessary, arranged by the Society with the consent of the university to meet special needs. I think, moreover, that by having such examinations before the commencement of practical work, proposing solicitors would have an opportunity of seeing whether the profession of law appeals to them and of proving whether they are capable of passing the necessary examinations—and that by this process the obviously unfit would be eliminated. One sees candidates time after time attempting to pass examinations which they

are practically incapable of passing, but, having spent money in articles and fees, they naturally are loth to retire from the contest.

It may, and probably will be, objected that the idea of making the passing of an examination in law a condition precedent to a pupil being allowed to be articled is revolutionary—this may appear to be so, but, for reasons which follow, such a revolution seems to me to be one which might be attended by a very happy result.

It should not be forgotten that the Society can already exempt from the Intermediate Examination a pupil who, *before articles*, has passed an examination in law after attending the Society's school, though this fact does not seem to be very generally known. It cannot, therefore, be argued that my suggestion (though effecting a change from a voluntary to a compulsory condition) is unheard of.

The subjects in which the pupil would be required to pass before entering the office would be pure matters of law—not practice, which latter would be deferred until the end of the period of articles during which he should be engaged in practical work.

I am not interested exactly as to what subjects should be included in the Intermediate or Final Examinations, but I suggest something like this :—

For the now so-called Intermediate Examination :—
- (*a*) Public Law.
- (*b*) Elements of the Law of Real Property.
- (*c*) Law of Contracts.
- (*d*) Torts.
- (*e*) Legal History.

For the Final Examination :—
- (*a*) Law of Real and Personal Property.
- (*b*) Equity.
- (*c*) Criminal Law.
- (*d*) Common Law.
- (*e*) Company Law.
- (*f*) Evidence.

Also :—

Wills, Succession, Intestacies, Administration of Assets, Bills of Sale, Partnership, Agency, Employment, Sale of Goods, Negotiable Instruments, Town Planning and Housing, Local Government, Patents, Trade Marks and Copyright, Employers' Liability and Workmen's Compensation.

I think there need be no time-limit for preparation for these examinations, but, when a pupil has obtained the necessary certificates, he will be entitled to enter his principal's office for practical work, and I think it should not be *necessary* to attend any of The Law Society's lectures preliminary to passing these examinations.

It may be said—when do the articles commence? I have not worked this out, but it is a matter of machinery. It might be arranged that a preliminary agreement be entered into with a solicitor that, when the proposing pupil has passed his pure law examinations, he shall be articled to that solicitor in the usual way—but I am anxious that neither the premium nor the stamp on articles should be paid until the pupil has passed the examinations in question.

The service of the pupil in the solicitor's office should be, say, for three years, and in that period the pupil would learn trust accounts and book-keeping ; also :—

A. Preparation of Contracts for the sale of real and personal property.
Preparation of Abstracts.
Examination of Title.
Preparation of Conveyances, Assignments, etc.
Searches and settlement of sales and purchases.
Preparation of Leases.
Wills.
Settlements.
Partnerships.
Commercial Documents.
Preparation of Cases for Counsel.

B. The practice of the Courts—King's Bench—Chancery—Probate—County Court—Police Court—Local Inquiries.
Drawing of briefs and conduct of cases in Courts.
Collection of evidence.
Formation and registration of Companies, including Memorandum and Articles, Prospectus, etc.
Registration of Public Utility Society.
Preparation of Town Planning Schemes.

C. The etiquette of the profession and management of offices.
Relationship with Clients, etc.

I suggest that classes and lectures on all these subjects be arranged by the Society in their Law School (to be conducted mainly by solicitors) and held not before 5 p.m.

It is useless to say that knowledge as to the above subjects should be obtained in a solicitor's office—sometimes it can, sometimes it cannot ; it depends on the class of work in the office and the size and efficiency of the office, but, in any case, both practical instruction and lectures on the above subjects would be extremely useful.

I can quite understand the desire of the Society to guide the education of articled clerks—the question arose a few years after the incorporation of the Society, and in 1833 the Society provided for the delivery of lectures on common law, equity and conveyancing—but attendance at these lectures was purely optional. In 1902, on the dissolution of New Inn, the Society acquired £61,969 for educational purposes—and on the sale of Clifford's Inn apparently the moiety of the income of £150,974 also. Having accepted these sums for the purpose of education the Society has, wisely or unwisely, considered that the cause of legal education is best served by establishing its law schools, attendance at which, in the case of the majority of articled clerks, has now for some years been made compulsory by Statute.

The idea of a university or school of law is an old one, but the school of law was to include both branches of the profession (and Lord Atkin, I believe, in a recent report suggested the co-ordination of legal teaching). I think it a little ambitious for The Law Society to start classes for pure law when there are other agencies, such as the universities, dealing with this subject, and I should personally prefer the activities of the law school to be mainly directed towards the practical education of the law student and that the compulsory attendance at the law classes should be limited to such practical work—there being of course a final examination in practice at the end of the articles. Section 32 of the Solicitors Act, 1932, provides that a person articled to a solicitor after 1922 shall not be admitted to the final examination unless he satisfies the Society that he has during the period of one year complied with the requirements of the Society as to attendance at a course of legal education at a law school provided or approved by the Society. I do not see a word in the Act that such law school should be reasonably effective for the purpose.

I do not know how many pupils attend The Law Society's School during the year under the " press-gang " regulations now in force, apparently some 500—or how many would attend of their own accord if these regulations were removed—but the pupils evidently do not rely on the instruction to be obtained at these classes to pass the Society's own examinations. It is significant that in the report of a well-known firm of law tutors, it is stated, and I have no doubt accurately, that in June, 1934, 234 of the 282 successful candidates, and in November, 1934, 188 of the 228 successful candidates were pupils of this firm, and in the solicitors' honours examination, on no fewer than six occasions, the whole honours list was composed of pupils of this firm—and at every examination with one exception, held in the last thirty years at least two-thirds of the honoursmen were their pupils, and there are other private tutors as well as the firm in question. I think we should all wish, as possibly the pupils themselves would also wish, that The Law Society classes were equally successful and that pupils attended the classes not by compulsion but by choice. It would probably increase the *esprit de corps* of the Society if most of the interests of the pupils were centred in The Law Society's classes, rooms and associations and not elsewhere.

The statistics I have given clearly point to the fact that there is something lacking in The Law Society's own scheme of education.

I am loath to say anything in depreciation of the law classes, but although I have made many enquiries of past and present students as to their value I have never received a satisfactory reply, and, if the articled clerk alone is asked as to what he considers the value of the classes, he generally replies with three letters of the alphabet which I must not repeat before this august and mixed assembly, but which I think the audience will understand to be his emphatic, though rather vulgar, view of their value. I do not know why this is, but evidently there is some radical defect in the constitution of the Law Schools—whether it is the largeness of the classes or the absence of individual tuition, or what other reason, I cannot tell. It may be also that the classes are too advanced for the ordinary student. I do not suggest that it is owing to lack of ability on the part of the tutors who are selected by The Law Society, though it may be that they are selected for their academic technical knowledge rather than for their teaching ability, but it is significant that possibly 80 per cent. or 90 per cent. of the examinees go to a well-known firm of tutors whose pupils also obtain all the best places in the examinations as a rule, and the examinees pay the fees of these tutors in addition to their payment for tuition in the Society's classes. It may be, of course, that the teaching of the Law School, though valuable as a matter of education,

has little reference to the examinations, whereas the firm in question always has its eye on such examinations.

I have looked at the accounts of The Law Society for the current year. Apparently the payments to the tutors amount to £9,000 and the total expenses to £16,000 as against receipts from the students themselves of £4,000, not necessarily voluntary members, but including those bound to attend the School of Law for one year. The expenditure on the Country Law Schools comes, I observe, to nearly £11,000. (I am dealing in round figures.)

Apparently, if I am correct in my figures, by constituting the firm I mention as an approved School of the Society the Law School would actually save some £16,000, less £4,000, and the students some £4,000. (This proposition, of course, is impossible to accept. I am merely using it for comparative purposes; but it seems clear that some alteration in the School of Law is absolutely desirable.) Of course, the firm in question makes its own—probably considerable—profit, and it is wrong, I am informed, to treat them in any way as crammers. Many who attend their classes tell me they are deeply grateful to this firm for the knowledge of law implanted in them by their tuition. It must not be considered that I am advertising this firm, which has existed, I understand, some fifty years, but I am anxious to point the moral that the Law School, having at its back large funds applicable to legal education, should be able to do far better than an unsubsidised private venture. It is true, of course, that some of the successful students must have been at some time members of The Law Society's classes.

With regard to the examinations themselves, these are entirely in the hands of the Society, and I cannot help thinking the standard is too high or not sufficiently practical. In the March Final Examination of last year the candidates numbered 261, of whom 128 satisfied the examiners—less than 50 per cent. I do not know whether there is any desire on the part of the Society to keep down the numbers of those entering the profession, but, if so, this should be done at an earlier stage rather than at a later. It is useless to pitch the standard too high. We are called lawyers, I know, and to be a good lawyer is a great honour, but it is a greater honour, I think, to be a good man of business—able to guide clients not only in their legal business, but in all their activities of life—and, if a busy solicitor looks through his day's work, I think he will find that only a small proportion of it is strictly legal. He does not require to know the whole body of law, but where to find it, and to beware of pitfalls. He does not require to be a pedant, or to know the last decided cases; if legal points arise he generally has an opportunity of looking them up or obtaining the advice of counsel—the specialist. Clients do not want to be troubled with legal quibbles, but to have their business carried through. We should remember that the mere ability to pass examinations is only a partial evidence of the fitness of a pupil for his future work, or his personality, and I should like to see some scheme by which The Law Society interviewed candidates and judged them themselves.

To sum up—my suggestions are that the articled clerk learns his pure law before he enters a solicitor's office and passes the necessary examinations, and that, having done this, he should become articled and serve in a solicitor's office, where he should, aided, if desired, by the practical classes of the Society, acquire his knowledge of practice, passing, at the end of his articles, as a condition precedent to admission, a really practical (as opposed to theoretical) final examination. I venture to think that at the end of his legal training, instead of being, as so often now, a rough tool with imperfect knowledge of practice, the articled clerk will be a perfected machine—able to carry out efficiently, according to his ability and opportunity, the work and responsibility his clients put into his hands.

Mr. T. BISCHOFF had written a letter which was read to the meeting by Sir Edmund Cook. He observed that a committee on the training of articled clerks had some time ago recommended a compulsory year of legal education before the articles, but the event had proved that the profession was not ready for so revolutionary a change, and the idea had been dropped. In Mr. Bischoff's opinion the change was a right one, and would come. Mr. Warren's remarks were equivalent to saying that the teaching at the Law Society's School of Law was useless. There was some justice in this charge, but it overlooked the difficulties, the patience needed to overcome them and the amount that was already being done. The real, fundamental difficulty was a basic difference between teachers and examiners. It was his considered opinion that the need for the crammer was created by the tendency of the examination to seek to catch out the pupil in something he did not know rather than to test his knowledge of principles. The examinations, as they were, let through the man who shirked his real work and crammed, while they might shut out a student who had been soundly trained. The Society's School of Law was not a cramming institution and ought not to be, and therefore its students were unable to pass their examinations unless they went to a coach.

Mr. HAROLD POTTER (London) said he had spent the better part of fifteen years in legal education, both of university students and of articled clerks. He welcomed the discussion of this subject, for the greater the interest taken in it by the profession, the faster would the progress be. The teaching of law was still in a developmental stage. The copying of documents was an extremely important basis for the clerk's training; if he was not prepared for the necessary drudgery he was not a person of sufficient care and attention to detail to make a good solicitor. A course of training before articles would ultimately form the basis of all legal education. Quite a number of young people embarked on the legal profession without any aptitude for it; they would never be good practitioners or sound lawyers. He had known a number who had begun as students at a university and who, after a certain time, had wisely left for other fields. Had they been articled clerks, with the very great expense of premium and Government stamps already incurred, they would have been much more reluctant to give up. Moreover, their unfitness would have become apparent at a much later stage, as an articled clerk seldom started a systematic study of law during his first two years. A university education had many advantages beyond the acquisition of information, and a degree course was therefore preferable to a course of study in a law school. Every clerk should have a law degree before taking his articles. The articled clerk was much more cut off from his fellows than was an undergraduate, and was much less able to assess his own unsuitability for the profession than were fellow-students who would show him in their own inimitable way that he was not suitable for the profession.

Mr. Potter hoped that The Law Society would not adopt a period of one year. For one thing it was too short, and, still worse, it might lead to a kind of curriculum too condensed to have the desired result. A man would only realise his own inadequacy when he was faced with a reasonably profound study of his subject. It would be a great advantage if the Council would reconsider their decision that a graduate in any subject should be allowed the same exemption as a graduate in law. He gathered from the paper that Mr. Warren thought there might be a body of pure law divorced from practice; in this he differed. In his experience, a teacher had never finished his work until his pupil could visualise the practical application of any theoretical teaching. The power to visualise facts without a practical context was a gift which was less widely distributed than was realised. The kind of question he would like to set in a final examination was of the type of one which was set a few years ago: a party is playing cricket on the sands between high and low tide mark with a hard ball; the ball hits a small child digging near by; is the batsman liable in tort? No decided case would give the answer. The student was expected to mention the four or five principles involved and to discuss the circumstances in which they would apply. It could not be done by first-year students, and only 15 to 20 per cent. of third-year students without practical experience could tackle it. It was all very well to say that problems could be referred to counsel: the student ought to know when he did not know enough to act without further assistance. After taking his law degree the articled clerk should have four years (it was doubtful if he could learn enough in less) of practical work followed by an examination in practical pure law covering the widest possible field. Specialism before qualification was wrong. It was of the utmost possible importance to supply a good legal historical background. The future of law rested with the solicitor's branch of the profession and the *esprit de corps* of that branch should be encouraged as never before. The tremendous debt owed to our legal system by our own country and by the whole world could only be appreciated by those who had at least an elementary knowledge of legal history.

Mr. A. E. OLIVER said that he was only just out of the Law Society's School of Law, and his impressions were diametrically opposed to those of Mr. Warren. He had hardly realised the debt he owed to the school before he read the paper. The teachers there, with very few insignificant exceptions, were of the very first calibre. It was almost impossible to find solicitors with the academic training and the free time necessary to become teachers. The coach supplied not only cramming but a useful survey of the subject and a whip to work. The solicitor who employed an articled clerk did not want a lawyer.

Mr. E. ROYALTON KISCH (London) did not see how the time could be reduced below three years unless the standard were lowered, which would be a great mistake. He would welcome an extension of the time. He was very doubtful if it were possible to find a teacher of sufficient lucidity and ability to get an intelligent knowledge of real property into first-year

students. He was surprised that Mr. Warren had put this subject into the intermediate curriculum, and suggested the substitution for it of criminal law. He did not think that town planning and housing should be included. A student could not be examined as to character, but he could be trained and moulded by example and lectures. It was of the utmost importance to teach articled clerks those very necessary qualities of tact, courage and patience which did so much to make him a good solicitor. Mr. Kisch would add also instruction in relation to the outside world and settlement without litigation. Clerks seemed to try to get their compulsory year over in their first year. This meant that they had thirty-two hours in which to do the whole of real property law. What man could possibly master the subject in so short a time in his first year? The compulsory year should be taken in the second or third year of the articles.

Mr. C. L. NORDON (London) emphasised the immense national importance of the solicitor's training, the most important part of which was practice. He urged the "dejargonisation" of the law. A solicitor could not give his articled clerk any practical training, because he was always having to drop his work to attend lectures. Mr. Warren's indictment of the present educational system was a *Rylands* v. *Fletcher* warning, that he who let loose an untrained animal, or solicitor, was responsible for the consequences. Mr. Nordon hoped that the debate would bear fruit and that the importance of the training of legal practitioners would be realised in order that they might preserve the liberties of the people for which the country stood.

Mr. A. MORRISON (Bedford) said that the defect of the present system was that the boy who entered articles direct from school was launched into the law without any opportunity of appreciating the obligations of his career. Later he came to the conclusion that he was not really fitted for the profession, but his father told him that he must stick it, since his articles had been paid for. It was in that state of mind that the student had to spend two or three days a week in town for classes. He was apt to seize the opportunity to learn a good deal which was not in the curriculum of the School of Law. This was a risk which parents would, no doubt, be glad to avoid. Mr. Morrison suggested that certain aspects of legal education lent themselves very well to inclusion in the general school curriculum. If on leaving school the boy decided against a legal career, the teaching he had had would do him no harm and might do him some good. This was a matter, Mr. Morrison suggested, that might be discussed by the Education Committee of The Law Society in consultation with the Headmasters' Conference and the Association of Public Teachers of Law. The object was that the father should not be irrevocably committed until the son had been tested by preliminary study.

Mr. G. A. C. PETTITT (Birmingham) thought a degree in law was very desirable. A solicitor covenanted to teach his articled clerk the theory and practice of law, but it was almost impossible for a busy man to give the practical attention to which the clerk was entitled in his first year. There was a regrettable tendency in this mechanical age to hand over documents for copying and abstracting to a competent typist instead of to the articled clerk. He appealed to all solicitors to spare time to talk to their clerks on such subjects as legal ethics, the relation between solicitor and client, and the relation with the solicitor on the other side.

Mr. WARREN, in reply, remarked that the sort of man who got high honours was not the sort of person whom solicitors liked to meet—unless, indeed, he took the honours in his stride.

Mr. R. GRAHAM PAGE, LL.B. (of Bournemouth), read the following paper:—

SEPARATE ROAD TRAFFIC COURTS.

The number of persons killed and injured in road accidents weekly is common knowledge. One reads the figures each week in the newspaper. The average weekly figures are approximately: 116 persons killed and 3,780 persons injured.

One has become so used to seeing figures like this each week that they no longer appear as the appalling catastrophe that they really are—until one stops to think that if these figures were the figures of casualties in a war, they would shock the whole of the civilised world.

However, despite the rather indifferent attitude of the public in general, it can safely be said that every responsible citizen has an earnest desire to see a reduction in the human toll of the road. From all sorts and classes of persons have come explanations of the alleged fundamental causes and proposals for prevention.

But still the massacre continues, slightly reduced, it is true, by the valiant efforts of the present Minister of Transport.

What is the legal profession doing to assist in the solution of the problem? And how, in particular, can we, of the solicitors' branch of that profession, be of service to the public in this connection?

It is probably true to say that the legal profession, in the course of one phase or another of its activities, is more concerned in discovering the causes and dealing with the results of road accidents than any other profession, trade or class—unless motor drivers themselves can be termed a "class."

Under these circumstances, it seems peculiar that the profession as a whole has not taken a more effective part in the campaign by using the knowledge which it has gained from such wide experience.

It is pertinent to ask two questions. First, whether the profession deals in the best possible way with such matters relating to road traffic as come within its province? And secondly, whether the knowledge and experience gained from those activities, and those activities themselves, could not be better co-ordinated and organised so as to form an ever-present help in the production of schemes and the framing of reforms to prevent road accidents?

You may say: "We deal with road traffic matters in the same way as we have always dealt with other matters, and that is sufficient. As regards co-ordination of knowledge, that's a matter for the Minister of Transport."

It is true that the present Minister of Transport has done exceedingly useful work by drawing up analyses of so many thousand accidents and endeavouring thereby to classify the causes, subjects and results of those accidents. But such analyses are lacking in inspiration. They are "mechanically" produced, as any analysis must be, and they reek of dangerous generalisations without that touch of personal discretion which arises from a knowledge of all the facts of the case.

Such an analysis does nothing to co-ordinate the various investigations or the diverse adjudications upon road traffic matters; nor does it co-ordinate the knowledge of all persons dealing with those matters, for it is drawn from the chief constable's insertions in the blanks on a stereotyped form.

The fact remains that at present many different persons, tribunals, institutions, courts and authorities investigate the different aspects of road traffic, with the result that there is not that co-ordination of sound knowledge, based on experience, from which might spring substantial and constructive proposals for remedial legislation.

Let me take an example.

Having successfully passed a driving test conducted by *Examiners*, you obtain a licence from the *Local Authority*. While driving along a road constructed and controlled by the *District Council*, or, perhaps the *County Council*, you misunderstand the signal of an *A.A.* or *R.A.C. Scout*, who is controlling the traffic at a cross-roads, and you come into collision with a 'bus, licensed by the *Traffic Commissioners* to run on that road. *A Police Constable* takes particulars of the accident and reports it to his *Chief Constable*. The Chief Constable decides whether any criminal proceedings shall be brought against you. As a result you appear, perhaps, before the *Justices* (or a *Stipendiary Magistrate*), who finds you guilty of an offence created by *Parliament* under an Act duly passed, or by the *Minister of Transport*, under a regulation made by him by virtue of powers granted to him for that purpose. The Act or the regulation may have been promoted upon the advice of the *Traffic Advisory Committee* or of some association of insurance companies or association of motorists or it may, perhaps, have originated in the Minister's own fertile brain. Anyhow, the result is that you are fined a sum which is sometimes determined by the *Justices' Clerk*, but more often by the condition of the chairman's liver.

If the accident was so serious as to have caused a death, you are called upon to face not only the Justices but also the local *Coroner*, who investigates the matter for no particular reason nor to any particular purpose.

Then comes a criminal trial before a *High Court Judge*.

At the same time you, or others concerned in the accident or their personal representatives or more probably the respective insurance companies, have instituted civil proceedings for damages, which proceedings will be heard either in the local *County Court* or in the *High Court*—the venue being decided by the irrelevant factors of the amount claimed or the poverty of one party.

And so it is that Parliament, the Ministry of Transport, the Local Authorities (District and County), the Traffic Advisory Committees, the Law Lords, the Lords Justices of Appeal, the High Court Judges, the County Court Judges, the Stipendiary Magistrates, the Justices of the Peace, the Justices' Clerks, the Chief Constables, the Coroners, the Traffic Commissioners and the Driving Test Examiners all have a disjointed finger in the unfortunate pie in an endeavour to control the activities of the users of the road.

Could not all their duties be co-ordinated under one body of Road Traffic Courts, namely, courts which would not only

adjudicate, but would also investigate and, in an advisory capacity, legislate?

By Road Traffic Courts (I use the word "courts" in the plural because there would be many places of session, but the "courts" would in fact be one court) I mean *one body to investigate the causes of road accidents, to adjudicate upon the public and private rights and liabilities arising therefrom and to advise upon legislation for the prevention thereof.*

The benefits flowing to the community from the creation of courts of the nature which I conceive will, I think, be manifest, but I must mention those benefits before I deal with the proposal in greater detail.

No doubt the purists of jurisprudence will cry out in agony at the proposal to combine administrative, judicial and legislative powers, but the practicalness of bringing the knowledge gained from the experience of a great number of individual cases into use in drafting legislation to deal more effectively with those cases is surely obvious. There would be, in touch with and arising from changing conditions, an endless supply of sound and experienced advice upon provisions for the prevention of road accidents.

The primary duty of the courts would be to investigate, and it would entail the investigation of individual cases with a view to the prevention of death, physical injury and other damage resulting from the use of the roads by motorists, cyclists, horse-drivers and pedestrians.

From such investigation would naturally flow the jurisdiction to adjudicate upon civil rights and liabilities, to convict and sentence for criminal offences and to advise upon legislation.

There would be a co-ordination and a consequent consistency in dealing with civil rights and liabilities and criminal offences arising out of road accidents, and there would also result considerable relief to a number of judicial and administrative bodies from the pressure of work thrown upon them by the increasing use of the road by motor vehicles and the accidents arising from such use.

The creation of Road Traffic Courts might even hasten the decease of the Coroner's Court—which would, in my humble opinion, be a blessing to all.

The idea of separate courts to deal with matters arising out of certain sets of facts is nothing new. In fact, it is at the root of our present legal system. We have a court to deal with testamentary matters, a court to deal with divorce, a court to deal with matters giving rise to the application of rules of equity, a court to deal with matters to which the common law gives cognisance and—let me make particular mention of them, as they are the nearest approach to the scheme which I have in mind—the Commercial Court for Commerce and the Admiralty Court for sea traffic.

Nor is the idea of a separate court for road traffic entirely original. Such courts were found necessary recently to deal with offences against the 30 miles per hour speed limit.

The idea should not, therefore, appear too shocking even to the most conservative members of a conservative profession.

The jurisdiction of the proposed Traffic Courts would be both civil and criminal, and would cover all matters relating to road traffic now coming under the jurisdiction of the High Court, the County Court, the coroner, the magistrate, the Traffic Commissioners and the Chief Constables of Police, and also, so far as regards matters relating to licences, of the Ministry of Transport and the local authorities.

I need scarcely add that the jurisdiction would be sole and there would be an obligation upon those other courts to transfer any matters proper to be dealt with by the Traffic Courts to the Traffic Courts.

At once, the cry: "How ever many courts would be required?"

This is a question which must be met and answered. There is a difficulty in answering it because no statistics are available of the time now spent by the various courts concerned in hearing cases connected with road traffic. But there are other statistics which help.

In the first complete year since the Ministry of Transport commenced the issue of weekly figures, there were in Great Britain 204,800 road accidents, involving death or injury. Let us make that figure 210,000 by the addition of certain other cases (*e.g.*, dangerous driving not involving death or injury) which, as I shall mention later, would come before the traffic judge, and let us assume that the traffic judge could hear as many as two cases a day and that each court would sit for 212 days in the year, that is to say, five six-hour days a week, less the usual Bank Holidays and a vacation of one month.

Upon this basis, one arrives at a figure not very much below 500.

Five hundred new courts. It is a formidable figure, but one must remember that there would be a very great saving in the time occupied by the present courts in the hearing of road traffic cases, especially when, as is often the case, the same facts are heard over and over again by coroner, magistrate, High Court judge or County Court judge (civilly) and High Court judge (criminally).

I should also mention that, in the procedure which I am about to outline, in each court there would be a traffic judge and a traffic registrar sitting concurrently.

I recognise that here is the highest fence—the number of courts and the consequent expense—but bear in mind with me that we are losing 116 lives a week and we are injuring nearly 4,000 persons a week, and that, if we can deal with the prevention of those disasters in a more businesslike manner than heretofore, the expense is worth it.

To the financially rather than sentimentally minded let me say this:

It is difficult to assess the value of a human life, but I believe that during the war it was assessed at an average of £400 a year. We all know from experience of "running-down" cases the assessment of compensation for injury. Think, then, what the country is spending a year on road accidents and consider, if the proposal for the creation of traffic courts is really a substantial step towards prevention, whether that money would not be better spent in paying the officers of such courts.

One must also bear in mind the saving of time and money in the relief of the work of the present courts.

Let us assume then that we have overleapt that fence and let us assume that we can open the offices of a sufficient number of road traffic courts for five and a half days a week, and that we can arrange for a judge's court and a registrar's court to be in session for five days a week at every town of sufficient importance.

You will have gathered from the mention of a judge, and a registrar, that the proposed courts are to be something in the nature of county courts. One might describe them as county courts with the addition of criminal jurisdiction.

To each court would be appointed a traffic judge whose qualifications for appointment would be that he should be a barrister of at least ten years' practice and, if possible, of experience in "running-down" cases.

His duties would be:—

(*a*) to investigate the causes of, and

(*b*) to adjudicate upon

the civil and criminal rights and liabilities arising out of—

(i) all road accidents occurring within the jurisdiction of his court and resulting in death;

(ii) all road accidents occurring within the jurisdiction of his court and resulting in bodily injury, or, as the criminal law states it, "grievous bodily harm";

(iii) any road accidents occurring within the jurisdiction of his court and resulting in damage to property, if required so to do by any person claiming to have suffered damage; and

(iv) all major criminal offences relating to road traffic, for example, dangerous driving, careless driving, in charge of a vehicle while under the influence of alcohol or drugs, etc.

It would be the traffic judge's duty to adjudicate upon both civil and criminal liability, and if he found civil liability, to give judgment accordingly, indicating the person or persons entitled to recover damages from the person or persons found so liable, and, if he found criminal liability, to convict and sentence.

Apart from the indication of the person entitled to recover damages and of the person from whom such damages might be recovered if shown to result from the accident, no question of damages would be heard by the traffic judge.

If our worthy legislators or the Government which dictates their comings and goings could be persuaded to consider legislation for the creation of separate road traffic courts, it might not be difficult to persuade them to consider an amendment to the grossly unfair common law rule as to damages, namely, "*tout ou rien*." The Admiralty law in this respect would obviously be apt and suitable for application to road traffic as well as to sea traffic, so that the liability and the damages might be apportioned.

If the Admiralty rule as to damages were applied in the proposed road traffic courts, the traffic judge would not only indicate the person or persons entitled to recover damages, but would also apportion the liability and the right and indicate the proportion of damages (if any) to be paid and recovered by each party.

Damages would be assessed by the traffic registrar, an office open to barristers of at least seven years' practice, whose other duties would be—

(1) To grant or refuse the grant of licences for motor vehicles and drivers upon the report of driving-test examiners; and

(2) To hear and adjudicate upon all minor road traffic offences, for example, driving without a licence, obstruction, non-observance of traffic signals, insufficient lights, etc.

When the statisticians had produced an estimate of the time required by the Registrar to carry out his duties, it might be found that those three duties mentioned, namely, assessing damages, granting licences and adjudicating on minor offences, would not occupy the whole of his time and would leave him sufficient time to tax the bills of costs of proceedings both before the traffic judge and before himself, in the same manner as that in which the registrar of a County Court deals with costs.

If necessary, however, a taxing master could be appointed. That office might safely be combined with the office of chief clerk of the court, to which office a solicitor of at least five years' practice would be appointed.

Under the chief clerk there would be the necessary staff of minor officials, namely, clerks, typists and book-keepers.

There would still remain the present Traffic Commissioners, and they would be attached to the new courts. The same commissioner, however, would be appointed to several courts, so as to maintain the present districts and the consequent advantages of jurisdiction over long-distance public service vehicles.

An appeal would lie from the traffic registrar and the traffic commissioner to the traffic judge on a point of law and, with leave, upon a point of fact. An appeal would lie from the traffic judge to the Court of Appeal, but only upon a point of law.

Juries would be allowed in the courts of neither the traffic judge nor the traffic registrar, nor, of course, the traffic commissioner.

There is one more important official to mention, namely, the traffic prosecutor, a sort of chief constable-cum-director of public prosecutions, and his offices would be quite separate from the traffic court offices in the same way as the chief constable is separated from the justices' clerk or the director of public prosecutions from the High Court.

The qualifications for the appointment would be at least five years' practice as a barrister and some considerable experience of "running-down" cases.

Under him, he would have one or two junior counsel, one or two solicitors and a staff of minor officials, clerks and typists.

The traffic prosecutor's duties and the functions of his office will appear from the following outline of the proposed procedure, but it should be mentioned that he would be able to appear in court either himself or by counsel or by a solicitor.

In this connection I might mention that I see no reason why in both of the proposed courts, the judge's court and the registrar's court, right of audience should not be allowed to solicitors as well as to counsel or the parties personally.

In devising a procedure, the four points to be remembered are—

(i) That the proposed court's primary duty would be investigation;

(ii) That it is infinitely desirable to investigate an occurrence as soon as possible after it has happened, while the evidence is fresh in the minds of the witnesses;

(iii) That the proposed court would adjudicate upon both civil and criminal liability; and

(iv) That as a general rule the pleadings in a "running-down" case are very simple and comparatively brief.

Let us deal separately with the two courts, the judge's court and the registrar's court, and leave the traffic commissioner with his present procedure.

The present provision of the Road Traffic Act, that all accidents must be reported, would be strictly enforced and the report would be made to the traffic prosecutor. The police would also report all road traffic offences and accidents to the traffic prosecutor.

The traffic prosecutor would then call upon all parties concerned, that is to say, the police, the witnesses and those involved in the accident, to supply him with statements in the nature of proofs of evidence. Let us call them "preliminary statements." They would be similar to preliminary acts in Admiralty and could follow the lines of the present form required by the Minister of Transport to be completed by the police.

Only a short time, say seven days, would be allowed for such statements to be supplied, and unless supplied within that time from the request of the traffic prosecutor a penalty would result.

The time would, of course, be extended in the case of illness, and for that reason an extension might very often be necessary for one party or another. But the leave of the court would be necessary for an extension of time and such leave would not be granted as "of course."

The preliminary statements need not be on oath, but would be of the same efficiency as, for example, income tax returns as regards the necessity for truthfulness.

The traffic prosecutor having obtained the preliminary statements would then decide who should be made parties to the proceedings, that is to say, he would divide the sheep from the goats, the mere witnesses from the persons involved.

There would be no such thing as plaintiff and defendant, prosecutor and accused. The "parties" would be nothing more than principals in the presentation of the facts for investigation.

Upon the traffic prosecutor's decision as to who should be made parties, an appeal would lie to the judge.

The parties to the proceedings having been settled, the traffic prosecutor would call upon each party to submit (again within a short time) statements in the nature of pleadings. Let us call them "statements of pleas."

Both the preliminary statements and the statements of pleas would be open to the inspection of all the parties to the proceedings, but delivery by one party to another would not be obligatory until a request was made for copies.

If any party should desire to call a witness from whom the traffic prosecutor had not taken a preliminary statement, he would have to supply the traffic prosecutor with a preliminary statement from that witness.

Nothing in the nature of a reply would be permitted. Nor would any admissions assist in the proceedings as it would be the judge's duty to investigate all the facts. Admissions could serve a useful purpose, however, in cases of assessing damages before the Registrar.

It must be very seldom that a "running-down" case entails even a reply, let alone those extended pleadings known as rejoinders, surrejoinders and rebutters and surrebutters. And, again, in such cases, interrogatories are exceptional and affidavits of documents are, in general, useless. No injustice could arise from the abolition of such matters of procedure.

Some members of the profession experienced in litigation might be critical of the proposal to disclose all the evidence before the trial. But what injustice can that possibly cause? Rather the contrary, in my humble opinion. "Shock tactics" are seldom possible in a "running-down" case, and, even if they were, to discourage them would be of assistance in the proper investigation and adjudication upon the case.

Let us pass to the actual trial—or shall we call it the inquiry—of which the traffic prosecutor would give notice to the parties and to the witnesses he proposed to call. At the same time, the traffic prosecutor would inform the parties which of the witnesses he proposed to call and also what criminal charge any party should be prepared to face.

The procedure at the hearing would be in the nature of an investigation rather than a prosecution or a civil action.

The traffic prosecutor would lay before the judge all preliminary statements, whether obtained by him or submitted by other parties, and also all statements of pleas.

The traffic prosecutor would open the case and call his witnesses.

If there should be only one party other than the traffic prosecutor concerned that party would then open his case and call his witnesses, if any.

Then would follow the final speech of that party and, finally, the final speech of the traffic prosecutor.

In the event of there being more than one party, the judge would decide, after a perusal of the preliminary statements and the statements of pleas, in what order the parties should be heard. The judge would have full discretion in this respect but should exercise such discretion upon the principle that the party who can throw most light upon the subject-matter of the proceedings should have priority in opening.

The final speeches would be made in inverse order to that in which the cases were respectively opened.

The procedure would be therefore: the judge's perusal of the preliminary statements and statements of pleas; traffic prosecutor's opening; traffic prosecutor's witnesses; A's opening; A's witnesses; B's opening; B's witnesses; C's opening; C's witnesses; C's final speech; B's final speech; A's final speech; traffic prosecutor's final speech; judgment.

Each party would, of course, have the right to cross-examine another party's witnesses and to re-examine his own.

There would always be an official shorthand note taken of the whole proceedings.

The judgment would be a decision upon—

(1) whether any civil liability should fall on any party or parties;

(2) who should be entitled to recover damages;

(3) the proportion of damages falling upon and recoverable by each party respectively (that is, if the Admiralty Rules were applied);

(4) whether any criminal liability should fall upon any of the parties; and

(5) the liability as to costs.

Following upon the finding of an affirmative to No. (4) the judge would convict and sentence. The traffic prosecutor would, of course, supply the court with particulars of previous convictions.

That completes the brief summary of the proposed procedure before the judge, and it only remains for me to add that if the judge should at any time during the case consider that any civil or criminal liability appeared, *prima facie*, to fall upon any person not a party to the proceedings, he should adjourn the proceedings for that person to be made a party. If he should consider it necessary in the interests of fair justice to the person so made a party, he should order the case to be re-heard. A re-hearing might not be necessary in many cases as the person so made a party would, no doubt, already have been called as a witness and be well acquainted with the proceedings.

Now as regards cases to be heard before the Registrar.

If any party who should be entitled, by the judge's decision, to recover damages should desire to pursue his remedy, he should give notice to the Registrar within a fixed time, such notice to be renewed every so often (a fixed period) if the damages should not be ascertainable at once, for example, in cases of long illness resulting from the accident. If the damages should be disputed, the matter would be heard by the Registrar and the proceedings would be similar to an ordinary civil action for damages where liability is admitted but the amount of damages disputed.

As regards the Registrar's jurisdiction in minor traffic offences, the procedure would be similar to that in an ordinary police court prosecution, except that the traffic prosecutor would be in the position of the police as prosecutor.

The procedure for the grant of licences would be something less automatic than at present. It would, for example, be similar to an application in the police court for a cinema licence.

So much for the judicial functions of the proposed court and the administrative functions of its proposed officer, the traffic prosecutor.

Let me pass now to the legislative or advisory functions of the body of judges of the proposed courts.

For two days, once a month, the judges would meet in plenary session to confer upon the law and rules of procedure relating to road traffic.

A report containing, should the judges see fit, proposals for legislation, would then be made to the Minister of Transport.

The Minister could also put matters of proposed reform before the judges for their consideration and opinion.

The traffic registrars, also, would meet once a month in plenary session to confer, report and make proposals upon matters coming within their own province.

An advisory body of this nature, with unrivalled experience and complete knowledge of present problems and conditions of road traffic, would be of inestimable value, and, if it acted with courage, as there is no doubt it would, in putting forward proposals for legislation, and if the Minister made a precedent to act speedily upon those proposals, it cannot be doubted but that the number of victims claimed by the road would be very greatly reduced and the plague of road accidents would be exterminated.

It might be that the suggested plenary sessions would be found to be unwieldy. If so, a further suggestion is that the traffic judges and the traffic registrars should meet respectively in district sessions, that is to say, sessions of judges or registrars from a number of courts in one county or other area, and should appoint and instruct a delegate to attend the central session.

If this proposal were adopted it would probably be best for a different district delegate to be sent to each monthly central session, thereby ensuring a supply of fresh minds and fresh proposals while maintaining the advantages of one body.

Apart from the advisory functions by means of these full sessions, the traffic judges and the traffic registrars would, when they should see fit, advise the local authorities in the areas of their respective courts upon local bye-legislation.

That completes my outline of the proposed scheme, and I trust that I have satisfactorily answered the two questions which I put earlier. The answers appear to me to be—

(1) The legal profession *can* deal with such matters relating to road traffic as come within its province in a manner better suited to present conditions, and in a way more valuable to the public, by co-ordinating and organising its functions in this respect into one separate body under a simple and speedy form of procedure and by directing its attention to investigation as well as to adjudication.

(2) The activities of the legal profession with regard to road traffic matters and the knowledge and experience gained from such activities *can* be put to a service more valuable to the public by means of the collection of that knowledge and experience in one body to advise upon legislation for the prevention of road accidents.

In conclusion, let me quote in an altered form the first paragraph of the Minister of Transport's Foreword to that valuable little booklet, "The Highway Code," which has been dropped into every householder's letter-box recently.

This paper "*is put into your hands in the sincere hope that the study . . . of its provisions*" will rouse the profession to the promotion of a scheme which "*will make the roads safer and*" legal proceedings relating thereto "*more convenient for you and all others who use the King's Highway.*"

Mr. T. E. Toller (Leicester) was anxious that those who had to judge driving offences should themselves have experience of modern driving and be holders of licences.

Mr. F. E. Leffman (London) considered that an expert engineer was the person to deal with questions of damage and of causation, and should be attached to every court as an official expert.

Mr. Percy E. Dimes (London) read the following paper:—

The Municipal Service as a Career for Solicitors.

This is a subject probably only of indirect interest to many of the members attending this meeting, as I apprehend the majority to be already established in practice and the question of choice of career has been long since decided upon. But I also apprehend it to be the duty of every solicitor who accepts articled clerks, or who has sons or relatives qualifying for the legal profession, to tender to them such advice as he is able as to mapping out their careers to their best advantage. From this point of view I hope that what I am about to say may be of interest and assistance in deciding whether the young solicitor can be advised, with advantage to himself, to embark on a career in the municipal service, and the question arises how can he, if he has made the choice, best set about it to achieve success? What will be the financial return; what are the pitfalls to be avoided; the difficulties to be surmounted; the advantages to be obtained and the disadvantages (if any) to be suffered? Heaven forbid that I should suggest any comparison between the two, but whether you come to a municipality or "go to the dogs"—to see them race—you will find this at least in common in either sphere—that luck with merit sometimes takes a hand. And so one finds, in the municipal service, as indeed everywhere else in this not yet perfect world, that some are more and some are less successful then others, quite often due to fortuitous circumstance unconnected with deserts; and the young solicitor must be prepared to submit with equanimity to the vagaries of fortune and must school himself not to become disgruntled if he finds some of his colleagues, of comparable efficiency and merit, more favoured than himself by that fickle jade. What is merit—what are its constituents when applied to the local government official—what are the best means, especially in the larger municipalities, to ensure its discovery for recognition? These are matters to which I am sure the municipalities do give genuine and constant attention; so much so that although in the past I am informed that it was only in the Elysian Fields, in Arcadia, in Heaven and in Hell that all, without exception, reaped their due reward, I understand it is in contemplation at an early date to add the municipal corporation to that list. So soon as the system of selection for promotion by pure merit is brought to perfection, whatever the repercussions on the mediocrities, it will, I am sure, be hailed with unequivocal satisfaction by every first-rate subordinate in the service.

It is sometimes said that the young solicitor who enters the service in a subordinate position will only rarely have the opportunity, at any rate in the larger municipalities, of coming in direct contact with his employers—his clients. Some may think this a handicap and disadvantage, but I think it is not really so. If he concentrates on rendering a good account of himself to his immediate seniors and his chief officer, it is unlikely that want of direct contact with his clients will be of any disservice to him. After all, the filling of subordinate posts and questions of promotion, except in the highest ranks, are matters to which the municipalities themselves, having regard to their multifarous other duties, cannot be expected to give more than adequate attention, and in regard to those matters, although the decision always rests with them, they must be guided, to some extent at least, by the advice of their chief officers. If, therefore, the young solicitor, as I have said, concentrates on satisfying his senior officers, the absence of direct contact with his employers will not handicap him. Of course when the time comes, by reason of promotion to the higher ranks,

when his duties will include personal contact wich his clients, as, for instance, when he is deputed to attend and advise committees, his chance will come of submitting himself to the direct judgment of his employers.

Then it is sometimes thought that the Local Government official does not enjoy the same freedom and independence as a private practitioner, is subjected to a stricter discipline, inappropriate to his professional status: that he is likely to become entangled in red tape rules and regulations from which the private practitioner is free, and that personality or individuality has a smaller scope. But he should remember that submission to the right kind of discipline in the right spirit does none of us any harm, and that even the freedom and independence of the private practitioner is, in a sense, limited by the fact that he is, also in a sense, the servant of his clients—and I do not believe that the official possessing the proper mentality and the right amount of ability and common sense need ever become hide-bound by red tape or harassed by proper rules and regulations or find his individuality unnecessarily cramped.

As regards freedom of action to improve his position by transferring his services, it is true that after a number of years of service with one municipality he acquires something in the nature of a vested interest in his pension rights and may feel handicapped in bettering his position by acceptance of another more remunerative or more responsible appointment elsewhere entailing the loss of his accrued rights to pension, but the modern tendency is to look with sympathy on the principle of allowing (by legislative measures) the Local Government official transferring from one authority to another to take his superannuation and pension benefits with him, so to speak, and I would quote as an example of the legislation having this object in view the Local Government and other Officers' Superannuation Act, 1922, 12 & 13 Geo. 5, cap. 59. He must, however, be warned to keep in mind and endeavour to surmount the handicap of the "age limits" which I will deal with later.

As regards the advantages in the municipal services, the public official can always look upon his stipend as clear net profit and has not to concern himself with the fluctuations and the "overheads" to which the private practitioner is subjected, and he has not the same obligation to put by for the proverbial rainy day; he is assured in nearly all municipalities of adequate, even generous, provision for old age or premature ill-health by way of pension to the amount, after serving his full time, of 50 to 66 per cent. of the average salary of his last few working years, often coupled with a fairly substantial lump sum and, quite often in addition, some provision for his dependents in the event of early death.

Except in times of stress and pressure, which I can vouch for do occasionally occur in the municipal services, his working hours are not excessive, and he enjoys generous periods of leave. As regards responsibility, he has ready access to his seniors on matters of difficulty, and the general conditions of service are as reasonable as can be expected.

As regards pitfalls to be avoided and difficulties to be surmounted, the young solicitor joining the municipal services will find that the acid test comes when he is first deputed to attend and advise committees. He may at first find this rather a trying experience if only on the ground that often amongst the members of the Committees he is advising he will find members of his own profession well versed in the law of local government, but with average ability the time will very soon arrive when he will take these duties in his stride and discharge them without difficulty. He will find that as a general rule his clients are reasonable and considerate people to deal with who so far from creating difficulties are anxious to smooth the passage for him. When he becomes a veteran and is faced with some question of peculiar difficulty he may be justified in resorting to the subterfuge of adopting an expression of encyclopaedic knowledge and informing his clients that, although he inclines to a certain view—which he will carefully refrain from disclosing—he feels the matter is not altogether free from doubt and that the better course would be to refer the matter to him for a formal report, thereby successfully camouflaging the fact that he has not the remotest idea what the correct advice should be. But I would strongly dissuade the novice from pursuing this course as being somewhat fraught with danger. The advice I would tender to young solicitors new to this particular duty is never to commit themselves to a legal opinion which they are not quite sure is correct, never to hazard a view which may turn out to be inaccurate. When in doubt they will do themselves a great deal more good by frankly admitting it and asking for time for further consideration, and their employers will have much more confidence in them than would otherwise be the case.

I apprehend that it is a wise plan for any solicitor, whether in the municipal service or elsewhere, and one that gives satisfaction to his clients, if he first ascertains their wishes and desires and then applies his mind to the question as to how far it is possible to meet those wishes and desires—perhaps even without too much regard to the merits or demerits of the case—then to consider how far it is possible to comply with the instructions the client desires to give. This is not always an easy task, but in a municipality it is necessary to remind the young solicitor that he is dealing with what I will call, for want of a better term, a composite client, and when, as sometimes happens, one component part of that composite client desires to pursue a certain course which is diametrically opposed to the line of action desired to be taken by the other component, the putting into practice of the axiom of advising as far as possible in accordance with one's client's wishes is not rendered less difficult.

I am afraid that most of us are still sufficiently acquisitive, when deciding on the choice of a career, to look upon the question of monetary return as one of the most important considerations, and on the question as to whether the municipal service holds out prospects equal to or better than private practice, from the financial point of view, I was interested to read recently an article in the Press dealing with the subject of the incomes solicitors in general are able to command, and I saw it there stated that some 5,000 solicitors practise on their own account or in partnership, and that of these many earn between £450-£750 net profit a year—that although, of the remainder, some earn immense incomes, scores, in the large centres, earning between £10,000 and £20,000 a year, while hundreds can command between the £2,000 and £5,000 limit, *the average income is not more than £400 a year.*

I do not know of any means of checking the accuracy of these figures, but, on the assumption that they are approximately correct, I am sure it can safely be said that any young solicitor of average ability joining the municipal service will with average good fortune almost certainly command in due course, under present conditions, a salary very considerably in excess of the average stated.

It is, however, within my own knowledge and experience that during the last thirty years, although the other conditions of service in local government positions have always been fair and satisfactory, the rates of pay have vastly improved. I remember seeing advertised when as a very young solicitor I entered the municipal service, now more than thirty years ago, two temporary legal appointments at a salary of £150 a year, and if my memory serves me correctly nearly eighty solicitors of all ages were in competition for them. At that time even some officials in the highest legal posts in the service were remunerated with salaries of £1,300-£1,400 a year and these were considered not inadequate. Members need only peruse the advertisement columns of the "Municipal Journal" and the other local government periodicals to see how vastly the rates of pay have improved since then. This is, of course, partly due to changed monetary conditions—but another ground is the vast increase in municipal activities during the last quarter of a century or so, throwing a much larger volume of work and increased responsibility on the legal and other departments—I need only mention as instances the transfer to county councils of the education and poor law services, the creation of town planning duties and the greatly increased housing activities. I think it can be said that in terms of actual cash the salaries that can be commanded by the municipal solicitor, be he chief officer or subordinate, have increased by perhaps up to 100 per cent. above the averages of thirty years ago. It is impossible to give any general figures as they will vary considerably with the various local government authorities, but as a general rule I think the young solicitor who decides to accept an appointment with a municipal corporation, once he has got his foot on the first rung of the ladder at perhaps £300 or £350 a year, has every prospect, even without exceptional good fortune, of rising in due course to £800 or £900 a year and, if he has over average luck coupled with the necessary ability, a very fair chance of earning £1,000 or more a year, while the highest posts, which are necessarily limited, can command £2,000, £3,000 and, I believe in isolated cases, even more.

There are innumerable controversial questions affecting service with municipal corporations upon which views continue to vary. It would take too much time to refer at length to many of them, but I should like to deal with two or three which are of general interest to solicitors—for instance—the employment of women—the marriage bar—equal pay for men and women—the age limit—and the prohibition against private practice.

These matters being controversial and largely matters of policy for the municipalities, as distinct from the officials,

it would perhaps be a little embarrassing, a little tactless, perhaps even a little impertinent, for me as an official to express my personal views, and therefore I propose to refrain from doing so and only to indicate, as shortly as I can, the reasons "for and against," as far as I know them, leaving it to those members who are sufficiently interested in the subject to form their own conclusions as to the rights or wrongs of the matter.

No doubt many members present are themselves members of municipal corporations who have already debated and come to decisions on these questions.

Firstly—The employment of women and the marriage bar—Having regard to the considerable number of ladies we now have the honour and pleasure of numbering amongst our colleagues in the legal profession, this is a question I must needs approach with some trepidation and therefore propose to do so with due caution. We are all familiar with the old platitudes about "the woman's place being the home," "their proper function to look after the welfare of their children and families as a whole-time occupation," and so forth. And while rather old-fashioned views (so called) on this matter are held in some quarters, I am credibly informed that those platitudes have long since been exploded. At any rate the principle of admitting ladies to the roll of solicitors has now been in existence for a considerable time and they are entitled to say that they are compelled to pass the quite severe initial test of the Final Examination on the same terms as their brother solicitors. But then it is said that the real test of ability only arises when the theoretical knowledge thus acquired is applied by the solicitor on setting up in practice for himself. The policy of admitting women solicitors to positions in the Civil Service already exists, and I have not yet heard of any case where they have failed to do that which is expected of them satisfactorily. And if that be the fact, it would be difficult to raise any objection to admitting them to the ranks of the Local Government service if indeed that has not already been done.

I believe in the Civil Service there is now at least in some departments a differentiation between the rates of pay of the men and the women and it has been argued that, subject to the exceptions which go to prove the rule, taken on the whole, the ladies are not quite so able as their male colleagues to accept responsibility or turn out work, either as to quality or volume, quite as good as their brothers. If it be the fact, it would seem to afford some justification for the differentiation in the rates of pay, but if the ladies are able to establish that there is no difference between them and their male colleagues as regards acceptance of responsibility and quality and volume of work, it would seem the ladies have an irrefutable argument in favour of the contention, which I presume they do put forward, that differentiation in the rates of pay cannot be supported.

And if they are accepted as municipal officials, ought they or ought they not to be asked to resign on marriage? As a general rule, at any rate until quite recently, municipal policy seems to have dictated the enforcement of the marriage bar, but there now appears to be a tendency towards its relaxation at any rate in reference to certain technical and professional officers. Any lady member interested in the subject will find a very clear and admirably reasoned exposition on the point by referring to the minutes of the London County Council for the 16th July last (at p. 80), which can be obtained from Messrs. P. S. King & Son, Limited, 14, Great Smith-street, Westminster, for 6d.

Secondly—The age limits.—It is, I believe, becoming more and more the practice among municipalities, when seeking professional officers either for chief or subordinate positions, to impose an age limit varying according to the position proposed to be filled. For the position of chief officer one often sees an age limit of forty-five imposed and for subordinate positions the limit is often considerably less. This is a debatable matter. In favour of the imposition it can presumably be advanced that in some respects it is in the interests of the municipal service and of the ratepayer. If a young chief officer is appointed, it ensures continuity of service for a considerable time, which undoubtedly has many advantages. It is also not in the interest of the ratepayer, having regard to the official's pension rights, which, as a general rule, are based on the rates of pay during the last few years of service, to promote to the higher positions any considerable number of officials when they are approaching the retiring age. These arguments are undoubtedly available to those who favour the filling of the higher positions by comparatively young men or the introduction of so-called "new blood" into the system. But on the other hand, the middle-aged official, who has had the honour and the privilege of devoting perhaps the major part of his professional career to a municipality (and for that very reason is handicapped in improving his position elsewhere), who finds himself debarred from further promotion and superseded by a younger man (it may be true not less efficient than himself) either from inside or outside the service but solely on the ground of the difference in age, may sometimes feel, provided he has served his clients with loyalty, devotion and efficiency, that it is a little difficult to justify, resulting in a slight sense of grievance and disappointment. He may even be pardoned if he alleges, not perhaps with complete sincerity, that he is being judged by standards (applicable to other professions) which are somewhat inappropriate to the practitioner of the science of the law, and that, although it is undoubtedly true that in the professions, for instance, of the pugilist, the performer on the flying trapeze, or the member of the male beauty chorus, deterioration sets in with middle age, the criterion applicable to them cannot be applied with equal justification to the official of the legal department of the local government service. Be that as it may, very often the young solicitor who is determined to carve out a successful career for himself as a local government official will find some advantage in being a little restless in his early days—forever watchful for the chance of improving his position and experience before he is too old, by transfers between departments and municipalities, thus guarding himself to some extent against some of the age limit handicaps. There is, however, one aspect of the age limit against which I know of no argument at all. I refer to the retiring age limit. This is generally fixed at sixty-five. Members may not believe that any solicitor who enjoys normal physical and mental health is "past work" at that age. Indeed, although probably every first class solicitor reaches his zenith of ability at forty, or even earlier, he continues equally efficient for many years after reaching sixty-five. At any rate, that is the accepted view as regards the members of a higher branch of our profession. But in order to recruit into the municipal service the right material, the fixing of a retiring age at sixty-five or thereabouts appears fully justifiable if only to add an incentive to the younger officials who may thus, and perhaps thus only, hope to attain to the higher positions in due time as the necessary consequential vacancies arise.

Lastly—The prohibition against private practice and the transfer of legal work from the private practitioner—It will nearly always be found that one of the conditions of service enforced on joining a local authority provides for the official giving his whole time and exclusive service to his employers and debarring him from private practice. The arguments in favour are on the lines that, in return for a permanent appointment with adequate remuneration, those services should not be detracted from by attention being given to outside activities, and that it would be unfair to his professional brethren in private practice if the municipal solicitor were allowed to accentuate the already acute competition to which the private practitioners are subjected. But the widening of a solicitor's knowledge and experience, which may be restricted by specialised work, cannot but increase his usefulness, and, if engaged on specialised work, he is apt to get into a groove which tends in some cases to impose some limitations. I believe in some departments of the Civil Service the rule is rather less rigid and, provided the official gives his undivided attention to his official duties for the full working day, he has some liberty as to his activities in his spare time. And even in the municipal service, if for instance the head of a municipal art school, in addition to his ability to inculcate the technicalities necessary to be imparted to his pupils, were also a first rate artist himself, I suppose it could be argued that it would be wrong to deprive the public of the product of his genius and himself of its financial reward. But in his case equally the argument as to competition with his brother artists no doubt also applies. Can it or cannot it be argued therefore that the restriction imposed on the Local Government solicitor is wholly beneficial or logical?

As regards the transfer to the legal department of the corporation of work previously entrusted to private practitioners, although the chief arguments cited in its favour I understand are that it is a matter of convenience and results in some saving to the ratepayers to have the work done by the permanent officials, I am sure that no member at this meeting who is in private practice will need any assistance from me in formulating an argument that the practice is entirely unjustified.

And so, to sum up, I would say that the young solicitor who embarks upon a municipal career should have a very good chance of making a success of it if he takes his professional duties seriously; has average ability, industry and common-sense; is determined to master the intricacies of the local government law and renders both to his employers and his senior officers adequate service. He must, however, not be

lacking in the virtues of courtesy and tact both towards his client and the public, always remembering that he is indirectly the servant of the latter, who are entitled to expect of him all the help and assistance that he is capable of affording them consistently with his duty to his clients. In return he will reap his reward in the shape of very reasonable pay while serving, an adequate, even generous, provision for old age, reasonable opportunities and leisure for outside pursuits, reasonable working hours and generous holidays. In fact he should find that the municipal service as a career has a very great deal to recommend it.

Mr. F. E. W. HOWELL (Manchester) drew the attention of the meeting to the paradox that a young solicitor in a municipal service was a potential town clerk or clerk to an urban district council, and yet these persons were not necessarily solicitors. As the youth progressed in his service his work became less and less legal and more and more administrative. The man who made a good lawyer was not necessarily fitted for the public service. Private work was better for the shy and retiring and for those with poor physique, for everything said or done by a municipal servant was liable to criticism and he was only occasionally not overworked. The number engaged in the service was increasing, but the number of chief positions was not increasing, and therefore the opportunities were less than they used to be. He had encountered no difficulties from solicitors sitting on committees or local authorities. Without one exception such colleagues had shown him the greatest kindness and consideration. Had they differed from him on any matter, they had always made an opportunity of discussing it with him privately in his office. He was glad to take this opportunity of paying a tribute to them.

Mr. C. H. GRIFFITHS (Bexley Heath) pointed out that the assistant solicitors to municipal authorities had no society to represent them other than The Law Society, and appealed to the Council to try to prevent further encroachment. A Departmental Committee had recently reported that it could not agree that a legal qualification ought always to be a condition of appointment. The smaller authorities could not afford a good man and the larger did not want one.

Mr. C. K. WRIGHT (London) said he was surprised that Mr. Dimes had not referred to the Hadow report. He was very strongly of the opinion that legal training was necessary for the proper guidance of local government. There seemed in some quarters to be a preference for applicants who had been articled to town clerks or clerks to local authorities; yet one who had been articled to a solicitor in private practice got a much more thorough grounding in law. A town clerk required the constitution of an ox, the courage of a tiger, and the skin of a hippopotamus, and must be prepared to receive all the brickbats going and only a very moderate proportion of the kudos.

Mr. HAROLD BEVIR (London) said that jobs formerly paid at the rate of £150 were now being paid at £400 or £450. This was in very striking contrast to the work of the private practitioner, whose income might have increased by 20 to 25 per cent. but out of it he had to pay increased staff expenses, usually amounting to about 100 per cent. Municipal solicitors had none of the worries of a staff. The private practitioner would lose his clients if he was too busy to prepare a contract for twelve months, but the local grocer who controlled the matter in a municipal department had no means of finding the real causes of delay except from the solicitor himself. The question whether or not a solicitor paid by a corporation should be allowed a private practice was purely a matter for the individual and the corporation concerned, but the profession ought to object very strongly to allowing its members to be used as money-making concerns for the ratepayers. No solicitor should be entitled to receive fees unless they went into his own pocket. It seemed possible that municipal solicitors were over-paid in the initial stages. A rough-and-ready rule was that an assistant ought to be able to handle three times the value of his salary. Very few men could do work worth £1,200 after one or two years' experience; yet such men were taking municipal jobs at £400 per annum.

Mr. DIMES, in reply, said that he held opinions on the Hadow report, and other matters raised in discussion, which in view of his position he did not think it desirable to express.

Mr. H. WENTWORTH PRITCHARD (London) read the following paper:—

POOR MAN'S LAWYERS.

"We will sell to no man, we will not deny or defer to any man either justice or right." Thus concludes what is probably the greatest chapter of the Great Charter of the Liberties of England commonly called Magna Charta. A cynic has said of our law that we sell justice to those who can afford it, we deny it to those who cannot and we defer it even to those to whom we sell it. This, no doubt, is a gross exaggeration, but the allegation is founded on a state of affairs which is or has been, to say the least, most unsatisfactory, and from time to time efforts are made to remedy these evils. The question of delay which incidentally is now being considered by a Royal Commission is outside the scope of this paper. I now want to consider the efforts which are being made to prevent the denial of justice to those who cannot afford to pay for it.

I understand that facilities for legal aid to the poor in Scotland have always been in advance of those in England. I do not profess to understand Scottish law and therefore will not attempt to deal with the subject, but I cannot resist the temptation of referring to an Act of James I of Scotland (1424, James I, cap. 45), which, I believe, is the first provision made for legal aid to the poor. The wording of the Act, which is delightfully picturesque and to the point, is as follows:—

> "Gif there be ony pur creatur for defaulte of cunnyng or dispense, that cannocht or may nocht folow his caus, the king for the lufe of God sal ordane the juge before quhom the caus suld be determyt, to purway and get a leil and wyse advocate to folow sik pur creaturs caus; and gif sik causes be obteynit, the wranger sal assyith baith the partie skaithed and the advocatis coastes and travel: and gif the juge refusis to do the law evenlie, as is before said, the partie pleanzeand sall have recourse to the king qua sall see rigorously punished sik juges, that it sall be example till all others."

In England the efforts in this direction do not appear to have met with success for many years. In recent times attention appears to have been given first to criminal cases, and this is only natural as the British idea of justice demands that everything shall be done to afford a prisoner a fair trial. The Poor Prisoners' Defence Act, 1903, made provision for free legal aid to persons committed for trial, but the Act had certain weaknesses, notably that it did not apply until the prisoner was committed for trial and that the prisoner had to disclose his defence before he was entitled to legal assistance. The Act was repealed by the Poor Prisoners' Defence Act, 1930, which cured the weaknesses of the old law. It provides for free legal aid to be afforded in the preparation and conduct of the defence of a person whose means are insufficient, and for assigning a solicitor and counsel to him for that purpose, if the necessary certificate is granted. The Act also empowers the granting of legal aid in the form of the services of a solicitor in proceedings before courts of summary jurisdiction.

As regards civil cases the procedure in the High Court is too well known to require more than a brief reference. Under the present system which was begun in 1925, the procedure is administered by The Law Society and the Provincial Law Societies. Solicitors and barristers give their services for nothing and free legal aid is afforded to poor persons. A Committee was recently appointed by the Supreme Court Rule Committee, under the chairmanship of Sir Boyd Merriman, to consider certain details in the procedure with reference to allowing profit charges in special cases. The Committee's report, which is dated the 30th July, 1934, does not deal with the procedure in general, but it is encouraging to find in the report a paragraph of appreciation in which it is stated that it is the Committee's considered opinion that, with such occasional exceptions as must arise in all human affairs, the work on behalf of poor person litigants is most admirably conducted. The Committee also mention that the public generally and the poor person litigants in particular frequently do not appreciate that the work is unremunerated. They stress the fact that solicitors not only give their services for nothing but bear out of their own pockets so much of the overhead charges of their office and clerical expenses as are referable to the time occupied by the case. The activities of the Poor Persons Committee during each year are admirably set out in a report which is appended to the annual report of the Council of The Law Society and perusal of this report gives a good idea of the work which is carried on. It must be remembered that this procedure only applies to the High Court and a vast majority of the matters dealt with are matrimonial causes. No doubt the chief reason for this is that, as a general rule, the amount at issue in litigation in which poor persons are concerned is not very large and therefore does not come within the scope of the High Court. There can, however, be no doubt that the effect of this system has been to afford to poor persons justice in the High Court which they could never otherwise have obtained.

The County Court is often referred to as the poor man's court. As a general rule the nature of the cases is probably simpler than that in the High Court and the procedure is undoubtedly simpler. County Court judges are used to parties conducting their cases in person and usually justice can be obtained without professional assistance. There are, however, many cases which are not straightforward and

where legal assistance is practically a necessity. The provision of free legal assistance in County Courts and the remission of court fees was considered by Mr. Justice Finlay's Committee whose final report was presented in January, 1928. They recommended that no change should be made in either of these matters except in one small class of actions, namely, where a person is admitted to sue or defend as a poor person in the High Court and after such admission the case is remitted to the County Court for trial. The Committee recommended that in such cases free legal aid should be continued and the court fees remitted. Effect has since been given to this recommendation. Apart from that there has been no fundamental change since 1928. This does not mean that no free legal aid is given in the County Courts. On the contrary, excellent work is carried on in this respect. In London the Bentham Committee, a charitable organisation, has been formed to conduct cases in County Courts and Police Courts, and there is to my knowledge at least one other society doing similar work in London. The procedure is somewhat similar to that carried on by the Poor Persons Committee in the High Court, except, of course, that there is no remission of fees in the County Court. Any case referred to the Committee is investigated and if it appears to be a proper case for assistance in respect of the poverty of the applicant, the merits of the case and the impracticability of its being properly presented in court without professional assistance, the case is referred to one of the solicitors and counsel on the list of the Committee who conduct the case gratuitously. The Committee is supported by voluntary contributions and has a " cases fund " for meeting disbursements. As a vast majority of the cases taken to court are successful, the amount spent on disbursements and not recovered is quite small. The reason why the majority of the cases are successful no doubt is partly that the cases are conducted by the ablest solicitors and counsel and partly because cases are not taken to court unless they are considered to be proper cases.

In the provinces work of this nature is also carried on, but it is most unequally distributed, depending, as it does, upon the efforts of the lawyers in each locality. In some towns excellent facilities are available which are adequate to meet all needs, whilst in others only a very paltry provision is made.

Having dealt briefly with free legal aid afforded in criminal cases, in the High Court, and in the County Court, I have now to consider another class of free legal aid for the poor which, so far as the number of cases dealt with is concerned, is very much greater than those already mentioned, and this is the main theme of this paper. I refer to poor man's lawyer centres. These centres exist all over the country scattered throughout the poorer districts, generally situated in settlements, church halls, or other institutions. It is probably fair to say that their number is steadily increasing. It is usual for poor man's lawyer centres to be open on one evening in the week for two or three hours, during which time poor persons attend and receive free legal advice from members of the Bar and solicitors. A rota is kept of those willing to attend each centre to give advice, and it is found convenient to attend in pairs, partly for company and partly for mutual assistance over any knotty point. Each centre is managed quite independently, though frequently there is a committee or society which co-ordinates the various centres in any particular district. In London this function is performed by the Bentham Committee. Some of these centres are run in conjunction with the various political parties, and whilst I do not wish to say anything against those centres, it does seem for obvious reasons most desirable not to allow politics to enter into this important matter of giving legal assistance to the poor.

To start a poor man's lawyer centre the chief difficulty is to obtain a rota containing a sufficient number of lawyers to prevent too great a demand upon the evenings of those who give their services. I know one solicitor who has attended a poor man's lawyer centre regularly every week, except, of course, during his holidays, for the last twenty-seven years. There are, however, many centres where the rota is sufficiently large for it only to be necessary for the members to attend, say, once a month or even less frequently. It is not difficult to obtain a room, and all that is required to furnish the room is enough chairs to seat the clients while they are waiting, a couple of chairs and tables for the consultants and a small library consisting of, say, a book on the Rent Restrictions Acts, a book on the Workmen's Compensation Acts, the well-known Justices' Manual and the County Court Practice. A card index or some other filing system is kept and a short note is made about each case and the advice given.

The etiquette of the legal profession not to advertise is, of course, observed at poor man's lawyer centres. Of those who come for advice some have either seen the centre or heard of it from their friends, whilst others are sent there by the almoner of a hospital. Quite frequently the officials of County Courts and Police Courts will advise a poor person to go to one of the centres if he appears to be trying to deal with some case beyond his powers of comprehension. The number of clients attending a centre varies considerably. One day for no apparent reason the number might be as much as four times the number on the previous day. Generally one finds the clients nearly all arrive at the time when the centre opens and they are taken in the order in which they come. The first duty of the poor man's lawyer, after noting the name and address of the applicant, is to satisfy himself that the applicant cannot afford to pay a solicitor. Usually an income of £3 a week is considered the limit, but special circumstances are frequently taken into consideration. This investigation must necessarily be of a somewhat superficial character because neither the time nor the machinery is available for making such investigations as are made, for instance, by the Poor Persons' Department. There is, however, one safeguard to prevent a person from obtaining free advice by " dressing the part," and that is, that the very facts of the case on which advice is sought often disclose the client's mode of living. The Finlay Committee in their final report state : " We have no reason to suppose that the system has been abused to any serious extent by those who could well afford to pay for advice." This statement would appear to apply equally to the conditions to-day. Although the invariable rule is that no fee is ever charged, it is not unusual to have a " poor box " on the table with a label on it indicating the object for which money is collected. The proceeds are sometimes devoted to the upkeep of the centre or are paid to some society which undertakes the county court cases for poor litigants. Frequently a small donation is quietly placed in the box by a person who has been given advice. Probably the clients appreciate an opportunity of showing their gratitude, and there is this advantage in having such a box, that it sometimes serves as a reminder that the work is being carried on voluntarily, and not, as some people imagine, by lawyers who are paid by the State.

As can be imagined, many of the problems presented to the poor man's lawyer have very little to do with the law. Anyone equipped with a sympathetic nature and a fund of common-sense could deal with many of the applicants. Some of the cases are most trivial and some of them profoundly tragic. It is common to find cases where advantage has been taken of a person's poverty to attempt to deprive him of his legal rights. No doubt experiences differ in each centre as to the class of cases which preponderates. My own experience has been that what may be called landlord and tenant cases head the list, including, of course, a large number of cases arising out of the Rent Restrictions Acts. It is surprising how sometimes poor persons have quite a good idea of the law on this subject, though perhaps more often they have an entirely wrong idea which may take some time to dispel. Probably the next largest class of cases consists of matrimonial or similar domestic problems, and after that cases of master and servant, including workmen's compensation cases, claims for wrongful dismissal, etc. Many cases arise from hire-purchase agreements usually relating to some luxury article such as a gramophone. In such cases the solicitor giving advice is often placed in a difficulty owing to the fact that the client has not a copy of the agreement.

The persons attending to give advice at poor man's lawyer centres must retain anonymous and as a general rule their functions are limited to the actual giving of advice, except for drafting letters to be written by the clients and occasionally drafting, say, a short will. They are frequently urged to write letters themselves on behalf of poor persons who are quite convinced that a solicitor's letter will obtain for them all that they require. But this practice has to be avoided, as it would be dangerous to enter into correspondence without carefully investigating the facts, and limitations of time and facilities do not permit this to be done. There are, of course, occasions when something more than advice is required. If proceedings in the county court or police court are necessary, the applicant is usually left to conduct his own case if it is a simple case and he is clearly not incompetent to do so. In those circumstances he is advised as to exactly what he must do and where he must do it. If High Court proceedings are necessary, the person is advised how to get into touch with the Poor Persons' Department. If a case in which county court proceedings are to be taken is a difficult one, the poor person is told that he ought to have the assistance of a solicitor, and it frequently happens that although he may be genuinely a poor person he is able and willing to make some sacrifice and pay a solicitor. Here the practice differs. Obviously the names of solicitors on the rota cannot be given. At some centres the names of solicitors are never given to clients. At others there is quite a convenient practice of keeping a list of, say, half a dozen or more firms of local solicitors who carry on that

kind of work and who are known to be fair and considerate in their fees, which will be within the reach of poor clients. This list is shown to the applicant, who may make his own selection from it if he so desires. Where it is clear that the employment of a solicitor is beyond the means of the applicant, the case is referred to one of the societies which I have already mentioned, and subject to a satisfactory investigation the case is conducted free of charge. Some of these societies are prepared to pay the court fees and disbursements whilst in other societies the practice is never to pay such fees or else to pay them only in special cases. County court fees may not be remitted, and it sometimes happens that a good case has to be abandoned because the would-be plaintiff has not sufficient funds to pay the court feet.

A solicitor who is considering taking up work of this nature need not be afraid that the work will be too difficult for him even if his ordinary work is of quite a different nature. There is a similarity between cases on which advice is sought, and it does not take very long to become so accustomed to them that many of the cases are mere routine. The majority of the questions which are asked can be answered from a rudimentary knowledge of the law and a little common-sense, together with the use of the text-books which are available. Where a case arises which cannot be answered immediately, there is no difficulty in telling the client to call again next week. In the meantime the solicitor can look up the law on the point and if he is not attending the centre next week, he can supply the answer to the person who will attend. A young solicitor will probably find the experience of attending a poor man's lawyer centre quite a useful one to himself as it prevents his law from becoming "rusty" and affords a useful experience in interviewing clients. For instance, it is not easy to ascertain the true facts quickly when a woman comes seeking advice bringing a friend to help her, and they constantly interrupt each other or talk at the same time and punctuate their story with references to the names which their neighbours have called them, although this might have nothing whatever to do with the subject-matter of the case. A young solicitor who in such circumstances has mastered the art of sorting out the essentials quickly, as there is no time to waste, will probably find his ordinary work in interviewing clients quite an easy matter.

The criticism is sometimes levelled at free legal aid for poor persons that it encourages litigation. This, however, cannot be said of poor man's lawyer centres, nor indeed of any of the other classes of legal aid to which I have alluded. They facilitate litigation where it is necessary and discourage it where it is not, and are frequently responsible for settling disputes without having recourse to the courts. If a poor person has a good case he is given assistance. Even if he has to conduct his case in person he will have been told what are the important features of his case and what matters are irrelevant with a result that the court will be saved time and possibly irritation. If he has no case he is so advised, and it may be that fruitless proceedings are avoided.

Of the persons who come for advice it may be said on the whole that they are generally grateful. Some go away very disappointed and do not fail to express it. One knows, however, that really their dissatisfaction is with their idea of the law and not with the poor man's lawyer, although probably they fail to recognise the difference. Usually, however, even if they are given an adverse opinion they derive a considerable amount of consolation and satisfaction from having had an opportunity of talking over their troubles with someone who is willing to lend a sympathetic ear and who can speak with authority. The relationship between solicitor and client is one which does not exist in any other sphere of life and it is one of the great features of poor man's lawyers that this relationship exists just as truly as in cases where the solicitor is remunerated. What is most striking is the simple faith and trust of these people in unfolding their stories to an apparent stranger. They come into a room and see a man whose name they do not know, whom they have never seen before and may never see again and they talk with a freedom and simplicity sometimes upon the most intimate concerns of life which command respect and awaken a desire to help.

From time to time many schemes have been put forward for providing legal aid to the poor, but the present system appears to be better than any which has hitherto been suggested provided that it can be extended to meet the needs of poor persons in all districts. I have been given some figures relating to the number of centres and the number of cases dealt with, but in voluntary work of this nature it is impossible to obtain accurate figures. I will therefore content myself with saying that a great deal of work is done, but not enough owing to the shortage of solicitors and members of the Bar willing to give their services. Whether the present system will succeed or not depends upon the legal profession. If it fails, it will open the door to an extension of the evils of speculative solicitors and those who are commonly called "ambulance chasers," it will lead to more discontent and possibly in the end to the introduction of a system of State-provided legal aid which to say the least would be far less satisfactory for the legal profession and for the public. If it succeeds, the law will be respected, citizens will become more contented and the prestige of the legal profession will be greatly enhanced.

Mr. H. A. DOWSON (Vice-President) said that this question had been before the Council for many years and had been loyally supported in every part of the country. The Council could look back with great satisfaction on the praise that had been awarded to it by the Lord Chancellor, the judges of the King's Bench and other high authorities. The Poor Man's Lawyer was new to him; he would make it his ambition to start a centre in Nottingham if one was not in existence already.

Mr. G. A. C. PETTITT (Birmingham) related that some time ago Birmingham had been somewhat short of lawyers who could attend regularly at the Poor Man's Lawyer centres, and a step had been taken which had proved successful and which he could recommend to other local societies. Articled clerks who had passed their intermediate and were approaching their final examinations were taken to sit with the consultant at the centres, and, in most cases, when they became qualified, had added their names to the rota.

Mr. W. PATERSON (Manchester) stated that in that city there were a considerable number of centres, and for a good many years there had been no difficulty in getting solicitors and barristers to advise in them. The difficulty had been rather to find solicitors to whom some of the cases could be referred if it was decided to take them up. It was easy to get solicitors to say that they would see the prospective litigants at their office, but more difficult to induce a solicitor with a fairly big practice to attend at the police court or county court to conduct a case. When a litigant was referred to a solicitor with a court case, he was told on the printed form with which he was always supplied that the solicitor's fee would be at least one guinea—not a very great reward to a practitioner for sitting a whole morning in the police court waiting for the case to come on. The system was admittedly open to abuse in referring litigants to solicitors. This had to be done carefully so as to prevent members of a centre referring cases to one another when there was a prospect of profit, such as certain workmen's compensation and collision cases. In Manchester a system was shortly to be tried under which, if a litigant wanted a solicitor, he would have to apply to the secretary of the association, who was not connected with any centre. Mr. Paterson joined with Mr. Pritchard in wishing that the county court fees could be remitted in proper cases. It was, he considered, absurd that fees should not be payable in the High Court, but that they should be charged in the county court, the "poor man's court." The present arrangement was a denial of justice.

Mr. N. T. CROMBIE (York), who is chairman of a poor persons' committee, pleaded on behalf of the many persons desiring help who did not quite come into the class of the poor litigant. A man might, for example, have four guineas a week but suffer from liabilities which effectively reduced the sum. He suggested that The Law Society might use its influence to get the fees in such cases reduced by one-half. Certain members on the poor persons' rota would undertake to do a divorce case for £30. The work did not pay at this figure, but the amount would just defray counsel's fees and court fees. In the county court on a running-down claim of £100 it was necessary to pay £5, and the committee sometimes did not feel that it ought to find this amount. He suggested this to the Council as a good and charitable object. Litigants benefiting by the provision would, of course, need the certificate of the poor persons' committee.

The PRESIDENT recollected that the matter had actually been before the Council, and referred to Sir EDMUND COOK (the Secretary), who said that borderline cases of this kind had been under consideration for a long time, almost since the High Court system had been instituted. The matter was dealt with to some extent in the current annual report. When he had been privileged to give evidence before Sir Boyd Merriman's committee he had suggested that there should be some sort of certificate for such cases: the committee should be empowered to consider litigants whose means were above the limit with a view to granting some exemption of court fees. He was not sure whether anything would be done. Such a concession might conceivably be abused if it became a matter of competition, but if it were left in the hands of the committee to allocate these cases to solicitors on the rota the difficulty would be more or less met. The court fee was in any event a large one, and it would also be necessary to come to terms with counsel.

Mr. R. W. HURLSTONE HORTIN (London) read the following paper :—

EXECUTION OF JUDGMENTS.

It is too seldom realised that litigation has two aspects, for while the energies of the practitioner with the excited co-operation of his client are in the first place directed towards obtaining a judgment, the second and more important side, that of satisfying the judgment when it has been obtained, is apt to be forgotten, particularly by the client. The various methods which are available are well known, and while I touch on them all I propose to confine myself to the question of imprisonment for debt and the possible provision of an alternative system whereby salaries and wages may be attached.

First, I would mention the provisions which apply to the county courts only where unpaid judgments over £10 are publicly registered. The fear of such registration is very real and many practitioners make it a habit as a matter of courtesy and in proper cases to write to the judgment debtor pointing out the effects of this provision. One may enquire why a similar rule does not apply in the High Court.

Next, a judgment creditor may take any of his debtor's goods in execution, provided that they are not the subject-matter of a bill of sale, a hire-purchase agreement, or included in a marriage settlement.

In Ireland, the court officials proceed to execution almost as a matter of course, but in this country an archaic system makes for considerable expense, and while the charges of sheriffs' officers may be perfectly reasonable when regard is had to the actual work which they do, the creditor must weigh the chances most carefully. In the county court, where the expenses are charged differently, changes might very well be made to the advantage of the judgment creditor, who has to pay disproportionate fees for a friendly visit by the bailiff to his debtor's home.

It must be emphasised that the strength of this method, as of most of the others, is the threat which is implied and which may result in payment or compromise. No one as a rule expects much from a sheriff's sale.

In addition to goods, by means of a writ of elegit, real property may be attached, but beyond the inconvenience which is caused by the registration of such writ as a land charge, the proceedings are impractical in most cases when pursued to their logical conclusion, except to the solicitor whose remuneration may be highly satisfactory.

Thirdly, a judgment creditor may issue a summons whereby any moneys owing to him by a third person or corporation are ordered to be attached. In the majority of cases the moneys are alleged to be owing by the defendant's bankers, and, of course, success depends on the debtor not realising that his creditor may adopt this method. It may be said that the odds are greatly in favour of the debtor.

I will not deal with bankruptcy at all.

In order to obtain information from a debtor it is possible to serve an order for examination as to means, but this procedure has in the main been confined to married women and limited companies. Orders are served on married women in the first place as a threat, but generally with little hope of concrete results should the examination be concluded.

The judgment creditor further may be in a position of some advantage should the lady ignore the order. He can apply for an order of attachment for contempt of court, and even a very small period of incarceration may be of sufficient inconvenience as to result in an application for release to be granted on terms satisfactory—in the monetary sense—to the creditor.

It must, however, be emphasised that such does not follow as of course. One has had experience of cases where the chastening effect of Holloway has produced the most effusive promises of payment in the future which have been accepted, but never fulfilled. I can recollect one particular case where the imprisonment might have extended over Christmas, but all parties were affected by the spirit prevailing at the time. The creditor did not get his money, but was badly out of pocket.

In the case of companies, an order requiring the directors to attend and give evidence may be effective, especially when the obscurity of the company is modified by the inclusion on its notepaper of the names of gentlemen with titles before and letters after their names.

There also exists a process of equitable execution which enables a creditor to apply for the appointment of a receiver for acquiring a defendant's rents, and capital or income which is not attachable under the above methods. An affidavit is necessary in which the facts must be clearly set out, and must be sworn to positively, unless the exact grounds of belief are stated.

Finally, we arrive at imprisonment for debt under the Debtors Act of 1869, and I would draw the attention of members to s. 5, which runs as follows :—

"Subject to the provisions hereinafter mentioned, and to the prescribed rules, any court may commit to prison for a term not exceeding six weeks, or until payment of the sum due, any person who makes default in payment of any debt or instalment of any debt due from him in pursuance of any order or judgment of that or any other competent court :

"Provided—(1.) That the jurisdiction by this section given of committing a person to prison shall, in the case of any court other than the superior courts of law and equity, be exercised only subject to the following restrictions ; that is to say,

"(*a.*) Be exercised only by a judge or his deputy, and by an order made in open court, and showing on its face the ground on which it is issued :

"(*b.*) Be exercised only as respects a judgment of a superior court of law or equity, when such judgment does not exceed fifty pounds, exclusive of costs. [Repealed, Bankruptcy Act, 1883, s. 169 (1).]

"(*c.*) Be exercised only as respects a judgment of a county court by a county court judge or his deputy :

"(2.) That such jurisdiction shall only be exercised where it is proved to the satisfaction of the court that the person making default either has or has had since the date of the order or judgment the means to pay the sum in respect of which he has made default, and has refused or neglected, or refuses or neglects, to pay the same.

"Proof of the means of the person making default may be given in such manner as the court thinks just ; and for the purposes of such proof the debtor and any witnesses may be summoned and examined on oath, according to the prescribed rules."

* * *

Now I would first point to an erroneous, although widely-held, belief, that a county court judge cannot make a committal order on a judgment of the High Court without first making an instalment order. Section 5 is perfectly clear, and the learned judges of the Chancery Division, who recently made public their views as to the proper operation of the Act, were most careful to point out that it was not their practice to make committal orders in the first instance. The reason is obvious, for judgment summonses in bankruptcy are never for modest amounts, and it is no doubt exceedingly rare for a creditor to be able to prove that a debtor has had the means available, above his moderate living expenses, to satisfy the judgment since it was obtained and has neglected so to satisfy it.

In the county court the amounts are generally smaller, although summonses are numerous, for the creditors with small debts find the expenses in connection with this procedure modest by comparison with other methods.

In addition, the numbers of summonses alloted for hearing on a single day may be so great that a judge cannot make the lengthy inquisition into this one point that the learned judges of the Chancery Division are enabled to do.

In consequence, it follows that there is a great, but sometimes unintentional, diversity in the working of this clause. Some judges feel it to be almost impossible to satisfy themselves completely, and therefore are notorious for never making committal orders.

In their anxiety to save the debtor from hardship and interpret the Act, they inflict on creditors considerable hardship.

Fortunately, the majority of county court judges look at the matter from a practical point of view and, unless the judgment is very recent and the amount large, make a committal order whenever the present means and future prospects make it reasonable. From their considerable experience they can sum up the position in a moment and when one realises that cases may be disposed of at an average rate of one every ninety seconds, they must be allowed some latitude for an occasional mistake.

Personally, I have yet to see hardship in the interpretation of the Debtors Act, and no doubt the experience of many members is similar. This statement is, of course, to be applied to a debtor only, for, as I have mentioned, a creditor frequently suffers hardship.

Surely, however, the time has arrived for a satisfactory solution of this question of imprisonment for debt, and to repeal the Debtors Act, with its foolish anomalies.

For instance, it may be a correct interpretation of s. 5 to imprison a man for forty-two days who is on the queue of a labour exchange, because in the past he could have paid a judgment debt and neglected to do so, but now cannot. Doubtless it would satisfy the shades of Dickens and Thackeray as being better than the earlier system, but to-day it is hardly suitable. Let us realise that the judgment creditor is not a Shylock, but, in the main, a most reasonable person, and even if he is not so, his solicitor generally finds that his own reputation will not allow him to carry out unreasonable

demands. That is, of course, the essence of what one calls debt collecting. Hysterical outpourings on the subject by the newspapers link up the sober verdict of a county court judge with the lamentable attempts of our amateur judiciary to interpret their duties in the police courts. A judgment creditor does not want to be bracketed with local councils in pursuit of ratepayers and wives in pursuit of husbands. May I say, of course, that I do not refer to those gentlemen of the legal profession who sit as stipendiaries. While the police courts, at any rate, can have available for their proper use penal jurisdiction of a simple and comprehensible nature for the correction of domestic and certain other social misdoings, those unfortunates who endeavour to satisfy purely civil debts of record must have recourse to an ill-digested piece of legislation which no one applauds, which was conceived in haste, most badly executed and put on the Statute Book through the clamour aroused by the two novelists to whom I have just referred.

Let us be quite logical and realise that it is quite as anti-social to owe money when means are and will be available to pay it, as to commit any one of the lesser crimes which figure in the Newgate Calendar. Surely a judgment creditor should be entitled, in addition to the methods which I have outlined, to an Act of Parliament which enables him to have his debtor visited with the most appropriate penalty if he neglects to pay what a competent judge after weighing the evidence has ordered.

As it is, he is theoretically imprisoned for contempt of court, a contempt, I might add, which is so lightly regarded by those affronted, that the judgment creditor is given the sole right to see that it is purged.

The real contempt is the contempt to pay the judgment debt and a simple and effective statute can make it so.

The difficulties of suitable instalment orders, of limits of imprisonment, are matters of detail, and the Legislature has the most valuable experience available in the persons of its judges, registrars and high bailiffs.

Now, in conclusion, I would say that a comparative study of Scottish, American and Continental procedure shows the advisability of providing a further method of attaching wages and salaries. The scheme, no doubt, would arouse opposition on any sort of ground. Two real objections would be forthcoming. In the first place an employer might combine with his employee in an endeavour to defeat an attachment order, but this is an evil which practice could minimise.

On the other hand, an employer might be so scandalised that he would sack his employee. One answer is that there is bound to be danger of publicity even as there is in existing methods. There is as much chance of an employer getting knowledge of his employee's imprisonment under the Debtors Act, especially as to-day bailiffs endeavour to execute their warrants as speedily as possible and are not so accommodating as the old timer, who might study the debtor's convenience and frequently did, so that a quiet week-end or, indeed, holiday was spent in prison, with no unnecessary publicity.

Secondly, a final attachment order would only be made after the debtor had been summoned to show cause why it should not be made.

The threat and not the deed, as in other methods, would be the most important.

I thank the meeting for the privilege which it has accorded my firm in allowing me to read this paper.

Mr. C. E. MARTIN (Southampton), referring to Mr. Hortin's statement that many practitioners made it a habit as a matter of courtesy in proper cases to write to the judgment debtor warning him that the judgment might be registered, reminded members that learned judges had condemned this practice as akin to blackmail. Every debtor was presumed to know the law. The rule had no doubt been limited to the county court with a view to preventing small people from incurring debts or for the protection of trade. Mr. Hortin had also spoken of a "friendly" visit by the bailiff. This doubtless meant walking possession; if so, the system ought to be altered. Why, Mr. Martin asked, should a judgment creditor have to pay exorbitant bailiff's charges for walking possession when the debtor might clandestinely remove his goods if he were so minded? He regretted that the author had not mentioned the question of bankruptcy. Completion and benefit of execution had recently been the subject of decision, but the authorities on the point were in some conflict and the law needed clarification. Solicitors knew well what immense losses were suffered by poor people through so-called investments in mushroom companies. The dangers were only disclosed in the winding-up proceedings, and many poor people lost their life savings without any apparent remedy. If insurance companies were compelled to guarantee themselves by way of a deposit, companies of this kind should be compelled to make deposits for the protection of the poorer classes. He objected to Mr. Hortin's use of the phrase "the clamour aroused by the two novelists," Dickens and Thackeray. "Little Dorrit" had familiarised the legislators of the day with the horrors of the debtors' prisons, and the Debtors' Act had been a merciful measure. That it was unworkable in many respects was agreed, and it needed amendment, but the question was: How? He agreed with Mr. Hortin's suggestions for the attachment of wages. A similar provision existed in the Bankruptcy Act under which, in appropriate cases, provision could be made for the maintenance of the debtor. Many a wage-earning debtor could defy his creditors and live in comparative opulence. He enquired whether Mr. Hortin, in saying "The real contempt is the contempt to pay," meant that the debtor was liable to be committed without any proof at all of being able to pay. Such an idea seemed to be retrogressive, and to deprive the debtor of the protection which he enjoyed at present. Attachment of the debtor's balance did not seem very valuable, as the debtor would naturally take great pains to clear the balance before the judgment creditor could get hold of it. In conclusion, Mr. Martin suggested an amending provision by which notice to a banker should operate as a garnishee order *nisi* for a few days during which the creditor could consider his position.

Mr. HORTIN, in reply, remarked that he had been taught by an old managing clerk who appreciated courtesy above all things in dealing with his debtors. The clerk had been accustomed to write in the following terms: "Dear Sir, We would inform you that judgment has been signed against you on behalf of our clients, Messrs. So-and-So, for the sum of £——. We would inform you that unless the debt is paid within three weeks the judgment will be registered against you and a notice of such registration will appear in certain trade protection journals. Over this neither our client nor ourselves have any control and we give you this information as a matter of courtesy only."

(To be continued.)

The Banquet.

Mr. ARTHUR D. THORPE, President of the Hastings and District Law Society, presided at the banquet, which was held at the Queen's Hotel on Tuesday evening. After the company had honoured the health of His Majesty the King, Sir Reginald Poole proposed "The Bench and the Bar." In a community such as that which he saw assembled, he said, it would be almost improper to say anything about the Bench without mentioning the deaths of Lord Tomlin and of Mr. Justice Avory. They had been curiously similar in three characteristics: their detestation of artificiality and sham, their greatness as lawyers, and the fact that they had sought justice and ensued it. Members had read in the papers lately that the Master of the Rolls, a great friend to solicitors, had to undergo a minor operation; The Law Society would wish him a happy issue from his affliction, with renewed health and vigour.

It was, continued Sir Reginald, a little difficult to say anything about judges. All sorts of perils were attached to the mention of the word. On such an occasion as the present, however, one encountered them in a different atmosphere from that of the court, and might to some extent speak one's mind. He believed he had the reputation of being a kind of human dustbin, the receptacle of all sorts of secrets concerning people's past lives which, really and truly, he knew nothing about. He assured the four judges who were present that evening that they could sleep peacefully that night, for he knew nothing about any of them. He had, however, noticed, in approaching this part of his speech, a slight tremor in the attenuated figure of Mr. Justice Eve. The less said about judges the better—especially after a meal, when the less one spoke at all the better. Possibly some of the gathering had wondered at some time what the intelligent foreigner thought of the word "Bar." There existed the ordinary bar of iron; the harbour-bar; "two to one, bar one"; and the cocktail bar; and, with respect to the Lord Chancellor, there was Pooh Bah; and Baa, baa, Black Sheep—present company excepted. The relationship between the solicitors' profession and the Bar was intimate and confidential; it was no unreality, but very true and sincere and, so long as it lasted, all would be well with both branches.

Lord HEWART, Lord Chief Justice, replied for the Bench. After compliment to his hosts, he recalled three remarks of the late Mr. Justice Avory. One of his friend's last public acts had been to propose a toast at the Mansion House; he had begun by saying, "We all know what kind of wine needs no bush, and this toast certainly needs no butter." The second had been in answer to a request for advice concerning what Lord Hewart should say in responding, some years ago, to the toast of His Majesty's Judges:- "Oh!

say that we are well satisfied with the universal admiration in which we are held." The third remark had been made after a morning walk on circuit, which had been instructed, not to say monopolised, by a local magnate who had joined the pair uninvited and had talked incessantly. Avory had said. "I do like dogs," and, when asked the particular reason, had replied: "They talk so little." England was as likely to get another William Shakespeare as another Horace Avory.

Law and Justice.

During the celebrations of the Silver Jubilee there had hardly been an address or a speech, a sermon or a hymn, which had not given first place to the blessings of justice and freedom. More recently, at Geneva and elsewhere, what men were seeking was precisely that the force of law might be substituted for the lawlessness of force. Those whose happy fortune it was to serve the public in the sphere of law might perhaps gather some encouragement and learn some lessons from those facts, upon which it was not necessary to dwell. The title of the judges was "His Majesty's Judges," not the judges of anybody else. It was from the King himself, not from a Government, still less from a Government Department —(laughter)—that the judges received their letters patent. It might be well to remember that fact, for other reasons and because one who made a search of the territory lying between Westminster Abbey and Temple Bar might possibly discover quite a number of half-hearted Hitlers and miniature Mussolinis. It might be useful sometimes to remind persons who had forgotten, or who had never known, that there was still in existence an instrument called the Act of Settlement, and that the independence of the judges was the protection of the people.

In conclusion, Lord Hewart observed that part of the price which he paid for holding the rather coveted office of Chief Justice was that from time to time innocent journalists, playing unsuspectingly into the hands of persons to whom the epithet did not apply, were good enough to predict for him an early retirement. The responsible authors of these delicate and amusing attentions must really learn to be patient. Some day, perhaps, they might get what they wanted, but he hoped and intended that they should have to wait at least another twenty years, and in the meantime nobody who looked forward, however earnestly, to memorial services could predict with reasonable certainty who would be the mourners and who the dear departed. He added that his distinguished and beloved colleagues more than deserved all the praise that had been uttered concerning them.

Mr. S. G. Turner, K.C., responding on behalf of the Bar, expressed his pleasure at speaking for once in the presence of the Lord Chief Justice without the risk of being interrupted—(laughter)—by some penetrating question of which he could not determine whether the direction was intended to be in his favour or in that of his opponent. Further, he had the unique privilege of making a few observations after his lordship had pronounced judgment. The relationship between the Bar and the solicitors rested not only upon mutual trust, but also upon mutual obligation. While no member of the Bar would fail to acknowledge the obligation he owed to the other branch of the profession, he was also from time to time constrained to remember the debts which they owed to him. Those who were concerned primarily with that branch of the law which dealt with matters of local government felt it peculiarly appropriate that in this centenary year of the passing of the great Municipal Corporations Act, 1835, The Law Society had as its President his old friend Sir Harry Pritchard. Probably no one to-day had a greater knowledge of the principles and details of local government legislation than had Sir Harry. His labours in connection with the necessary changes in that body of law and its codification continued, and his friends might look forward to the time when, instead of having to wend their way through a multiplicity of statutes and orders in order to find out the law on a particular subject, they would look to what might be called this evening, at all events, "Sir Harry's Code," and have the matter put before them all at once.

Sir Claud Schuster, K.C., then proposed the health of The Law Society. He complained of one reason why it was difficult to propose the health of the Society in the town of Hastings. The President had reminded them that morning of the effects on English law and the English jury system produced by the landing of William the Norman in this neighbourhood. During the address he had pondered on what it would be like—as one sat in one of the King's Bench courts on the seventh day of the cross-examination of the plaintiff by the learned counsel to whom that task had been entrusted, and looked at the sleepy and bored faces of the jury—if the wind had only blown contrary and prevented the landing. The town might therefore have much to answer for, but in truth and in fact William the Norman had not landed at Hastings and had not fought his battle there, so that Hastings at any rate could not be blamed for the shortcomings of the jury system.

The Society's Real Work.

The Law Society had, he supposed, been banded together in the first place with the primary object of protecting the interests of those who belonged to it and seeing that they received fair play and were not forgotten when legislation which might affect them was before Parliament. Long ago, however, it had passed from that primary function—though he believed it still kept it in view—to one which was far more important to the national wellbeing and the administration of the law. For twenty years, sitting in a room at Westminster, it had been his almost daily task to be in touch with Sir Edmund Cook and with the President of the day, and he had been struck with the daily concern of the Council with the general welfare of the body politic. The benefit to the body politic of this distressed world would be incalculable if it were possible to substitute for the present order a world-wide reign of law such as that which prevailed in this country. How much anxiety would be banished, how many distressed homes would be quiet, how much blood would not be shed, how many adventures would be left unattempted? The primary object of the Society was to take part in the administration of the law so that the reign of law might prevail, and the private interests of its individual members should be subordinated to that great purpose. For many years there had been no attempt at the reform of legal administration in which the Society had not taken an active interest. No body had prepared a project of reform but The Law Society had been represented on it.

Another constant preoccupation of the Society was the education of the budding solicitor. It maintained with great expense and great care and forethought a school of law which from every aspect was unique in the country. From this school graduated the young men who were to practise throughout the country and, uncontrolled, to advise the business man, large and small, in the conduct of his affairs. Whether the Society had done well or ill, no one would question the care, trouble and honesty with which the minds of the Council had been given to this most important work.

Poor persons' litigation exacted sacrifice, not only from the Society but also from every individual solicitor, of money and time. Sir Claud doubted whether people at large realised what it entailed from the great body of solicitors. Those who looked at the work from outside and yet had some knowledge of its administration, especially if they knew how great the difficulties had been before The Law Society came to the rescue, must admit that this work alone would amply justify the praise which The Law Society received.

No one on earth, it might seem, could be so wise as Sir Harry Pritchard looked. Nevertheless, Sir Harry was very nearly and, perhaps, altogether as wise as he looked—a fact which made Sir Claud very cautious in proceeding to say more about him. When he saw Sir Harry moving along the corridors of either House of Parliament with the air of purpose which he always wore, he reflected that he had better be very careful before he took any point in any private Bill which Sir Harry had deposited. Sir Harry did not talk very much, but certainly thought a great deal and to the purpose. During the year for which the fortunes of The Law Society were committed to him for his guidance, the Society would continue to prosper as it had in the past. From Sir Harry, as from those who had preceded him, the Lord Chancellor and his officials would receive that generous help, for which they had always been so grateful.

Livening the Law Reports.

Sir Harry Pritchard, the President, in reply, remarked that the gathering had been good enough to drink the health of The Law Society and, inasmuch as most of those present were members of it, he had not supposed that they would have great hesitation in doing so. He particularly thanked those who were not members and were therefore able to drink the toast with an unbiased mind. Shortly after he had been elected President he had found, to his surprise, that among his functions was to serve as a member of the Council of Law Reporting. For the purpose, he supposed, of satisfying him that he was a member of that august body, the secretary had sent him the articles of association, in which he had found himself described as "The President of the Society of Attorneys, Solicitors, Proctors and Others not being Barristers practising in the Courts of Law and Equity in the United Kingdom." He liked the words "not being Barristers": it looked as though the founders of the Society, having roped in all those kinds of lawyers whom they thought eligible for membership, had, when they came to the barristers, said, "No, we won't have those fellows!" It might be suggested that those who had selected the title of The Law Society

were equally impolite, for the name apparently embraced all classes of lawyers and did not even take the trouble to say "not being barristers," but simply ignored them. He had asked various friends whether they had any suggestion to make for the improvement of the law reports—not that he had thought they required it. One had suggested that they might be made a little more snappy. Sir Harry said that he would undertake that, if during his year of office their lordships would make their judgments even a little more snappy than they were, he would do his best to see that when they reached the Law Reports none of that snappiness was lost.

After a complimentary reference to Sir Frederick Pollock, Editor of the "Law Reports" for forty years, Sir Harry touched on the problem of solicitors' clerks' pensions. To pension clerks from the resources of a firm was not, he said, very satisfactory: it meant a doubtful liability and the burden did not necessarily fall on the right shoulders. The Solicitors' Clerks' Pensions Fund met the requirements. It was being fairly well supported but not so well as he would have hoped, and he commended to his colleagues the full use of the scheme, which benefited the clerk and the principal alike. A clerk would give better service if his future were secure. His own firm did not appear in the list of those who had adopted the scheme, but only because they had a scheme of their own which antedated the fund and gave slightly better benefits.

Mr. ST. JOHN HUTCHINSON, K.C., Recorder of Hastings, then proposed the health of the Mayor and Corporation. He supposed that he had been invited to propose the toast on the principle that when a corporation had to have its health proposed, one of its own servants was a very good person to do it. The only difficulty was that, although the Borough of Hastings did what they called "pay" him, they neither appointed nor could they remove him, so that he was in a position to be candid. The only criticism he could think of, apart from his salary, was that a little whitewash was needed in one corner of the court in which he so ably presided. One of the Mayor's functions was to judge bathing-belles. He was probably a good judge, but he had never asked his learned Recorder to come and help him—knowing presumably that he was a quiet married man. The Borough of Hastings possessed extraordinary go-aheadness. Its inhabitants seemed to get everything, the best and the worst—far be it from him to say which was which. They had bathing-belles, they had carnivals, they had The Law Society, an excellent orchestra, chess competitions—in fact, he could think of nothing that they did not have. In modern days a town which wanted to make a success had to spend money and to see that it was spent properly. This was one of the things that Hastings had learnt and which had crowned its efforts with success.

Alderman ARTHUR BLACKMAN, J.P., the Mayor of Hastings, in reply to the toast, said that, as one with experience of the mayoral office, he avoided the temptation to think himself a fine fellow, remembering that on the 9th of November he would—unlike the Lord Chief Justice—fall from the skies whither he had been shot in a shower of glory, just like the stick of a rocket. He gathered that the Recorder was not altogether satisfied with his pay, and asked whether Mr. Hutchinson ever thought at all of the honour of the position which he held. He undertook to see if something could not be done about whitewashing the Recorder's court. He and his colleagues had not spent the whole year with the bathing-belles; other conferences had been held in Hastings, including one of bath-attendants—male—and another of the Royal Antediluvian Order of Buffaloes. He had not been alone in company with the fifteen bathing-belles for the week of their stay; there were in all forty members of the borough council. He testified to the enterprise and loyalty of all his colleagues and staff.

The toast of "Our Guests" was proposed by Mr. CORNWALL BAILY, who remarked that anyone who saw The Law Society at that moment would ask what in the world was the good of the Society; its work was nothing but junketing and pleasure-making. These activities were, however, an excellent thing, and it would be good for the peace of the world if they had been able to invite Signor Mussolini to their banquet and tempt him with a little macaroni, or some such congenial food, to become a peaceable-minded person. A subject of discussion that afternoon had been the execution of judgment debts, but the debt which The Law Society owed to Lord Blanesburgh could not possibly be discharged.

Lord BLANESBURGH, in reply, suggested that as a lawyer he might be quite a fit person to answer the toast, as he would show a proper appreciation of his hosts. Breaking into Doric, he exclaimed: "Here's tae us! Wha's like us? Gey few!" Another reason for selecting a lawyer at this late hour was his dislike of gratuitous speech. Though gratuitous, however, his speech was relevant in the sense that the Society's guests were all grateful beyond measure for the hospitality which had been so graciously extended to them.

Mr. H. A. DOWSON, the Vice-president, proposed the health of the Chairman, who had done everything in his power to make the visit of the members enjoyable. His stay had been pleasanter than an earlier experience of Hastings, when he had found himself in a small yacht off the pier after an unsuccessful attempt to round Beachy Head. He had anchored two hundred yards out in a ghastly night, and in the morning had been greeted by a coastguard waving from the end of the pier in an outward direction. Heaving the lead, he had found himself nearly on the rocks and had hoisted sail, and for a moment it had been touch and go whether the boat would fill away on the outward tack, or on the inward and be cast on the beach. Fortunately the sails had filled in the proper direction, and he had landed at Rye instead.

The CHAIRMAN, in reply, recalled an occasion on which a newly-formed and enthusiastic students' society had had the temerity to invite Lord Russell of Killowen, when Chief Justice, to its first annual meeting; the solicitors of the borough had rallied round and the evening had been most successful.

Amongst those present besides the speakers were: Sir Edmund Cook, Sir George Courthorpe, M.P., Mr. Justice Eve, Sir Roger Gregory, Sir Dennis Herbert, M.P., Mr. Justice Luxmoore, Sir Charles Morton, Sir John Stewart Wallace, the Archdeacon of Hastings, Mr. F. M. R. Davies, Mr. E. C. Fulton, Mr. D. W. Jackson and Mr. J. H. Thorpe.

Legal Notes and News.

Honours and Appointments.

Mr. H. BALDWIN, solicitor, of Stamford, Lincolnshire, has been appointed Town Clerk of that borough in succession to the late Mr. Charles Atter. Mr. Baldwin was admitted a solicitor in 1927.

Mr. H. L. SIMMONS, Assistant Solicitor to Blackburn Corporation, has been recommended as Senior Assistant Solicitor to Ipswich Corporation. Mr. Simmons was admitted a solicitor in 1927.

Birmingham Watch Committee have unanimously approved of the appointment of Mr. C. C. H. MORIARTY as Chief Constable of the City Police Force in succession to the late Sir Charles Rafter. Mr. Moriarty has been assistant chief constable for seventeen years.

Professional Announcements.

(2s. per line.)

SOLICITORS & GENERAL MORTGAGE & ESTATE AGENTS ASSOCIATION.—A link between Borrowers and Lenders, Vendors and Purchasers.—Apply, The Secretary, Reg. Office: 12, Craven Park, London, N.W.10.

Notes.

The next General Quarter Sessions of the Peace for the Borough of Stamford will be held in the Town Hall on Thursday, 24th October, at 11.30 in the forenoon.

The offices of the Council for the Preservation of Rural England and the Council for the Preservation of Rural Wales, previously at 17, Great Marlborough-street, W.1, will in future be at 4, Hobart-place, S.W.1.

Messrs. Longmans have in hand for early publication a volume on "Primitive Law," by A. S. Diamond, M.A., LL.M., Barrister-at-Law. This is an account of primitive law from its earliest beginnings until law emerges into the full light of history.

The MSS. Students' Room of the British Museum will be closed for re-decoration for about three weeks from 7th October. Arrangements have been made to accommodate readers elsewhere, and it is hoped that it will not be necessary to limit the number admitted.

Mr. Bernard Campion, K.C., Bencher of Gray's Inn, and Metropolitan Magistrate, will deliver a lecture on "The Criminal in Court," at the North-Western Polytechnic, Prince of Wales-road, Kentish Town, N.W.5, on Tuesday, 15th October, at 8 p.m.

The Permanent Court of International Justice at The Hague has elected Mr. Nagaoka, former Japanese Ambassador in Paris, to the vacancy in the Court caused by the death of Mr. Adatchi. Mr. Nagaoka was appointed to the Japanese panel of jurists available for the Court last February.

The eighth annual report of the Board of Trustees of the National Police Fund, covering the work of the fund for the year 1934, has been issued. Particulars are given of the grants to police forces for their convalescent homes, benevolent funds, sports and recreation clubs, libraries, and other purposes.

A cinematograph film was shown as evidence in a recent case at Bristol Police Court. A firm of cabinet makers was fined £10 for using a machine inadequately fenced, and the magistrates and officials watched a film of the machine in action. It was projected on a portable screen in a room near the court.

Mr. Ivan Snell, magistrate at Marylebone Police Court, paid a tribute to bookmakers last Tuesday, when it was urged that defendants in a case did not know they were infringing the Betting Act. "Bookmakers as a class," he said, "always pride themselves on being, and most of the world acknowledges them to be, men of very high intelligence. They know more about the betting law than a great number of lawyers."

The Michaelmas Law Sittings begin on Monday, 7th October. The number of appeals totals 152, compared with 229 last year. The figures for the Divisional Court have increased from 121 to 128, in the King's Bench Division they have decreased from 1,102 to 810, and in the Probate and Divorce Division they have increased from 1,140 to 1,469. The figures for the Chancery Division are not yet available.

By an order of Sir Rollo Graham-Campbell, Chief Magistrate at Bow-street Police Court, members of the public, including Press representatives, will in future be excluded from all Metropolitan Police Courts while applications are being heard by magistrates. The reporting of such applications, with rare exceptions, has always been prohibited, but hitherto reporters have been permitted to remain in court as an act of courtesy.

Mr. Frank B. Kellogg has informed the President of the Permanent Court of International Justice that he finds himself compelled by circumstances to cease attending the sessions of the court and to resign his position as a judge. He states that he deeply appreciates the great importance of the court in the field of international relations and that he desires to co-operate in every way possible in furthering judicial settlement of international disputes.

The Town Clerk of Stoke Newington has prepared for his council an official brochure which provides a permanent record of the Jubilee celebrations this year in the borough. Five hundred copies have been printed free of cost to the council, and it is proposed to hand over the total proceeds of the sale of such copies to King George's Jubilee Trust. The brochure, which is attractively compiled and produced, gives a full account of the way in which Stoke Newington celebrated the Silver Jubilee.

A course of ten lectures on Industrial Law will be held under the auspices of the Industrial Welfare Society at the Society's headquarters, 11, Hobart-place, Westminster, S.W.1, beginning on 2nd October. The lectures will be given by Mr. H. Samuels, M.A., Barrister-at-Law. The object of the course is to give those taking it a knowledge of those branches of the law which deal with industry, treated as far as possible from a practical rather than an academic standpoint. The classes will be held every Wednesday, at 6.30 p.m. Each session will be of one and a half hours' duration, of which thirty minutes will be available for questions and class discussion. Those interested should apply to the Society's Secretary, from whom further particulars can be obtained.

RE-OPENING OF THE LAW COURTS.

SERVICE AT WESTMINSTER ABBEY, MONDAY, 7TH OCTOBER, 1935.

On the occasion of the re-opening of the Law Courts a Special Service, at 11.45 a.m., will be held in Westminster Abbey, at which the Lord Chancellor and His Majesty's Judges will attend.

In order to ascertain what space will be required Members of the Junior Bar wishing to be present are requested to send their names to the Secretary of the General Council of the Bar, 5, Stone Buildings, Lincoln's Inn, W.C.

Barristers attending the Service must wear Robes. All should be at the Jerusalem Chamber, Westminster Abbey (Dean's Yard Entrance), where robing accommodation will be provided, not later than 11.30 a.m.

The South Transept is reserved for friends of Members of the Bar, and a limited number of tickets of admission are issued; two of these tickets will be issued to each Member of the Bar whose application is received by the Secretary of the General Council of the Bar not later than Friday, 4th October.

No tickets are required for admission to the North Transept, which is open to the public.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 10th October, 1935.

	Div. Months.	Middle Price 25 Sept. 1935.	Flat Interest Yield.	‡Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	111½	3 11 9	3 4 8
Consols 2½%	JAJO	83½	3 0 1	—
War Loan 3½% 1952 or after	JD	103⅜	3 7 6	3 4 3
Funding 4% Loan 1960-90	MN	114½	3 9 10	3 3 0
Funding 3% Loan 1959-69	AO	99	3 0 7	3 1 0
Victory 4% Loan Av. life 23 years	MS	111½	3 11 9	3 5 7
Conversion 5% Loan 1944-64	MN	118½	4 4 5	2 8 6
Conversion 4½% Loan 1940-44	JJ	109½	4 2 2	2 12 1
Conversion 3½% Loan 1961 or after	AO	103⅛	3 7 10	3 6 3
Conversion 3% Loan 1948-53	MS	102	2 18 10	2 16 0
Conversion 2½% Loan 1944-49	AO	98½	2 10 9	2 12 6
Local Loans 3% Stock 1912 or after	JAJO	92	3 5 3	—
Bank Stock	AO	355xd	3 7 7	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	84	3 5 6	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	93	3 4 6	—
India 4½% 1950-55	MN	111	4 1 1	3 10 10
India 3½% 1931 or after	JAJO	93	3 15 3	—
India 3% 1948 or after	JAJO	80	3 15 0	—
Sudan 4½% 1939-73 Av. life 27 years	FA	118	3 16 3	3 9 4
Sudan 4% 1974 Red. in part after 1950	MN	113	3 10 10	2 18 3
Tanganyika 4% Guaranteed 1951-71	FA	111	3 12 1	3 1 5
L.P.T.B. 4½% "T.F.A." Stock 1942-72	JJ	109	4 2 7	2 19 0
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	106	3 15 6	3 11 6
*Australia (C'mm'nw'th) 3¼% 1948-53	JD	101	3 14 3	3 13 0
Canada 4% 1953-58	MS	105	3 16 2	3 12 4
*Natal 3% 1929-49	JJ	100	3 0 0	3 0 0
*New South Wales 3½% 1930-50	JJ	99	3 10 8	3 11 9
*New Zealand 3% 1945	AO	99	3 0 7	3 2 6
†Nigeria 4% 1963	AO	111	3 12 1	3 7 9
*Queensland 3½% 1950-70	JJ	100	3 10 0	3 10 0
South Africa 3½% 1953-73	JD	105	3 6 8	3 2 8
*Victoria 3½% 1929-49	AO	99	3 10 8	3 11 10
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	94	3 3 10	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	105	3 6 8	3 2 4
Leeds 3% 1927 or after	JJ	93	3 4 6	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	103	3 8 0	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	80	3 2 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	92	3 5 3	—
Manchester 3% 1941 or after	FA	94	3 3 10	—
*Metropolitan Consd. 2½% 1920-49	MJSD	97½	2 11 3	2 14 4
Metropolitan Water Board 3% "A" 1963-2003	AO	96	3 2 6	3 2 10
Do. do. 3% "B" 1934-2003	MS	94	3 3 10	3 4 4
Do. do. 3% "E" 1953-73	JJ	101	2 19 5	2 18 7
†Middlesex County Council 4% 1952-72	MN	113½	3 10 6	2 19 6
† Do. do. 4½% 1950-70	MN	114	3 18 11	3 6 0
Nottingham 3% Irredeemable	MN	93	3 4 6	—
Sheffield Corp. 3½% 1968	JJ	105	3 6 8	3 5 0
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	109½	3 13 1	—
Gt. Western Rly. 4½% Debenture	JJ	119½	3 15 4	—
Gt. Western Rly. 5% Debenture	JJ	133½	3 14 11	—
Gt. Western Rly. 5% Rent Charge	FA	130½	3 16 8	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	122½	4 1 8	—
Gt. Western Rly. 5% Preference	MA	110½	4 10 6	—
Southern Rly. 4% Debenture	JJ	109	3 13 5	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	109½	3 13 1	3 9 1
Southern Rly. 5% Guaranteed	MA	123½	4 1 0	—
Southern Rly. 5% Preference	MA	110½	4 10 6	—

*Not available to Trustees over par. †Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.